

1 1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF LOS ANGELES

3 RELIGIOUS TECHNOLOGY CENTER, A)
4 California Non-Profit Religious)
5 Corporation; CHURCH OF)
6 SCIENTOLOGY INTERNATIONAL, A)
7 Non-Profit Religious Corporation;)
8 and CHURCH OF SCIENTOLOGY OF)
9 CALIFORNIA, A Non-Profit)
10 Religious corporation,)
11)

12 Plaintiffs,)

13 vs.)

14 No: BC 033035

15 JOSEPH A. YANNY, an individual;)
16 JOSEPH A. YANNY, a professional)
17 law corporation, and DOES 1-25,)
18 inclusive,)
19)

20 VOLUME II

21 Defendants.)
22)
23)
24)
25)

26 Volume II - Deposition of FORD GREENE, taken on
27 behalf of the Plaintiff, at 3340 Ocean Park Boulevard,
28 Suite 1050, Santa Monica, California 90405, commencing
29 at 9:00 a.m., Wednesday, April 8, 1992, before Jan
30 Serra, CSR 8207.

A P P E A R A N C E S

FOR THE PLAINTIFF CHURCH OF SCIENTOLOGY:

BESBRIS, HOLLIS & STOLLER
BY: MICHAEL T. STOLLER, ESQ.
10900 Wilshire Boulevard
Suite 1010
Los Angeles, California 90024
(310) 443-5200

FOR THE DEFENDANT:

LEWIS, D'AMATO, BRISBOIS & BISGAARD
BY: GRAHAM E. BERRY, ESQ.
221 North Figueroa Street
Suite 1200
Los Angeles, California 90012
(213) 250-1800

FOR THE WITNESS:

HUB LAW OFFICES
BY: FORD GREENE, ESQ.
711 Sir Francis Drake Boulevard
San Anselmo, California 94960
(415) 258-0360

THE REFEREE: THE HONORABLE THOMAS T. JOHNSON

ALSO PRESENT:

HOWARD GUTFELD
GERALD ARMSTRONG

///

I N D E X

WITNESS: FORD GREENE

EXAMINATION

PAGE

BY MR. STOLLER

101

EXHIBITS:

DEFENDANT'S
DESCRIPTION

PAGE

(None)

NUMBER

PLAINTIFF'S
DESCRIPTION

PAGE

8 - Substitution of Attorney

141

9 - Substitution of Attorney
///

143

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

(None)

2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE REFEREE: You're reminded you're
still under oath.

MR. GREENE: I recognize and respect
that.

EXAMINATION

BY MR. STOLLER:

Q From my understanding we're taking your
deposition, and Lorien Phippeny is here today, and as
far as Mr. Armstrong, I understand from time-to-time
he's a paralegal or someone working in your office?

A He works for me full time.

THE REFEREE: He's here for various
reasons.

I suggested to him he could sit in if he
wanted to until he goes to pick up Ms. Phippeny,
unless you had some objection.

MR. STOLLER: I do have an objection. I
would like to sequester witnesses.

MR. BERRY: Is that position going to be
taken at trial?

Will it be agreeable to us sequestering
your witnesses out of the court room?

Will we be able to exclude Mr. Rathbun

2 1 and other such people? What's good for the goose is
 2 good for the gander.

 3 MR. STOLLER: I understand that.

 4 I'm just talking about my own experience.
 5 And generally if there is other witnesses present I
 6 would like to follow that policy.

 7 I think it keeps more of an integrity of
 8 the proceedings. To the extent whatever agreement you
 9 work out with trial counsel at that time, I think that
 10 would be the appropriate response.

 11 THE REFEREE: Mr. Armstrong, why don't
 12 you sit out.

 13 MR. ARMSTRONG: That's fine.

 14 THE REFEREE: Mr. Moxon didn't finish
 15 with Mr. Armstrong yesterday after 5:00. And when I
 16 called a halt to the proceedings, and the
 17 understanding was I believe that there be an
 18 examination of Mr. Greene and Ms. Phippeny with the
 19 expectation that, or hope, or call it what you will,
 20 that there be a chance to finish up with Mr. Armstrong
 21 later in the day.

 22 MR. STOLLER: That's my understanding,
 23 and Mr. Moxon will be available to complete that
 24 endeavor.

 25 THE REFEREE: We're all on the same

2 1 drawing then, at least for the moment.

2 Q BY MR. STOLLER: From the conclusion of
3 your deposition on February 5th to resuming here
4 today, did you have an opportunity to discuss the fact
5 of your taking, of continuing your deposition, with
6 anybody?

7 A Let's see. The people who knew --
8 You're asking me with whom have I
9 discussed the fact that I was going to be deposed
10 today, that we're down here at some point?

11 Q That is correct.

12 A Dave Parker.

13 ~~Grant Birye.~~ *Graham Berry*

14 Joe Yanny.

15 *G*
~~Berry~~ Armstrong.

16 Kirk Seidele.

17 Q Anyone else?

18 A Yeah, Laurie Schryver I believe.

19 S-c-h-r-y-v-e-r.

20 That's it.

21 Maybe Arthur Wachtel also.

22 W-a-c-h-t-e-l.

23 Q When did you have a conversation with Mr.
24 Parker regarding resuming your deposition here today?

25 A Yesterday morning.

1 Q Was anyone else present?

2 A Mr. Berry.

3 Q Was there any other time they had a
4 conversation with Mr. Parker about resuming your
5 deposition today?

6 A No.

7 Q Same question with Mr. Berry.

8 When was the first time that you had a
9 conversation with Mr. Berry about resuming your
10 deposition here today?

11 A I really don't know.

12 It would be sometime between the 5th and
13 now.

14 Q Who else was present, if you recall?

15 A It would have been Mr. Parker as to
16 yesterday.

17 Otherwise, no one.

18 Q So you're indicating that there was more
19 than one discussion with Mr. Berry other than
20 yesterday, or only yesterday's discussion?

21 A We're involved in this litigation. We're
22 involved in the Armstrong litigation. And what is
23 going to be proceeding in either or both is really
24 kind of taken for granted.

25 They're on notice. I'm on notice. So

2 1 it's an awareness that really is contextual in
2 background. There is no need to have any discussion
3 about the fact that my deposition would be taken
4 because we both know it. So we certainly haven't had
5 any discussions about really the prior deposition or
6 what would be the substance of this deposition.

7 So in terms of when did we say gee Ford,
8 your deposition's going to be taken again, I don't
9 even know that we have had that kind of a
10 conversation. Just more knowledge, because they know
11 and I know, and we're waiting for it to happen. Now
12 it is.

13 Q I understand the position you have
14 expressed.

15 My inquiry is basically to find out
16 whether or not you had a specific discussion with Mr.
17 Berry?

18 A I'd say yesterday morning with Mr. Berry
19 and Mr. Parker.

20 Q To the best of your recollection can you
21 tell me what was discussed between the three of you?

22 A It was going to happen, period.

23 Q No further substantive comments?

24 A No.

25 Q When do you recall having a conversation

2 1 with Mr. Yanny about your continuation of your
3 2 deposition here today?

3 A You know, actually I'm not sure if I
4 actually had an explicit discussion with Mr. Yanny
5 regarding my deposition. If I did it would have taken
6 place on March 17, 1992.

7 Again, with respect to Yanny, it's more
8 of a contextual awareness kind of situation rather
9 than any explicit discussion. So my answer is it
10 would have been on the 17th of March.

11 Q Where did that discussion take place?

12 A Here.

13 Q Do you recall what you discussed with Mr.
14 Yanny on March 17?

15 A It was really an agreement on the record
16 I believe, or shortly after we had gone off the record
17 in this room wherein the future deposition date for
18 the completion of Armstrong, the completion of Greene,
19 the commencement of Phippeny would take place.

20 Q Do you recall anything else being
21 discussed between you and Mr. Yanny?

22 A No.

23 Q Kirk Seidel~~e~~, do you recall having a
24 discussion with him about the resumption of your
25 deposition here today?

1 A Yesterday morning.

2 Q Was anyone else present?

3 A No.

4 Q Can you recall what you discussed with
5 Mr. Seidel~~e~~ about continuing your deposition today?

6 A Yes, that's why he was taking me to the
7 airport.

8 Q That's why he was taking you to the
9 airport?

10 A Correct.

11 Q Laurie Schryver, do you recall when you
12 had a discussion with her about the resumption of your
13 deposition here today?

14 A Shortly after March 17.

15 Q Was anyone else present?

16 A No.

17 Q Do you recall what you discussed with
18 Laurie Schryver?

19 A Simply that I would be back down in L.A.
20 on April 7 and 8.

21 Q Who is Ms. Schryver?

22 A She was a friend of mine.

23 Q She is not an attorney?

24 A No.

25 Q When do you recall having a discussion

3 1 with Arthur Wachtel regarding the resumption of your
2 2 deposition here today?

3 3 A Sometime between the 17th and now.

4 4 Q Was anyone else present?

5 5 A No.

6 6 Q Is Mr. Wachtel an attorney?

7 7 A Yes.

8 8 Q Do you recall what you discussed with Mr.
9 9 Wachtel about the resumption of your deposition here
10 10 today?

11 11 A That I was going to be down in L.A. for
12 12 that purpose, period.

13 13 Q What does Mr. Seidelp do by the way?

14 14 A He works for me.

15 15 Q In your office?

16 16 A Correct.

17 17 Q He's not an attorney?

18 18 A He is not.

19 19 Q And Mr. Armstrong, when do you recall
20 20 having discussions with him about the resumption of
21 21 your deposition here today?

22 22 A It's 9:35. Probably about 8:45 this
23 23 morning, when we arrived here.

24 24 Q Prior to --

25 25 Subsequent to February 5th you had no

3 1 other discussions with Mr. Armstrong?

2 A Well, you know, again, it's the same
3 response with respect to contextual awareness.

4 Gerald Armstrong works for me.

5 Gerald Armstrong is a witness in this
6 case.

7 Gerald Armstrong is a defendant in Church
8 of Scientology versus Armstrong. I'm his attorney in
9 that case. So he's up on what's happening and is
10 aware of deposition dates, and so it's not something
11 really generally that requires any discussion.

12 So to answer your question directly, I
13 don't really know. It's just a matter of ongoing
14 awareness because of the closely, close nature of, and
15 circumstances of our relationship.

16 Q As a result of that contextual
17 description, as you just described, did Mr. Armstrong
18 offer any information to you prior to you resuming
19 your deposition here today?

20 A With respect to my deposition?

21 Q That's correct.

22 A No.

23 Q When did Mr. Armstrong become your
24 client?

25 MR. BERRY: I'd raise the objection of

3 1 relevancy to this line.

2 THE REFEREE: I don't know how relevant
3 it is, but --

4 A I object on the basis of relevancy also.
5 And I'd also interpose the attorney-client privilege.

6 THE REFEREE: When he became a client?

7 MR. GREENE: Yes.

8 MR. STOLLER: Basically as far as
9 relevancy objections, the standard's obvious -- very
10 broad to allow any information that would be
11 admissible at the time of trial.

12 To the extent this situation is so
13 convoluted I think it's an appropriate question.

14 To the extent it's asserting an
15 attorney-client privilege, identifying peripheral
16 matters and not so much the substance of it, I think
17 is totally appropriate.

18 THE REFEREE: Thank you.

19 The objections are overruled.

20 A Gerald Armstrong and I first discussed
21 representation August 1991.

22 Q BY MR. STOLLER: August?

23 A 1991.

24 Q Did he contact you?

25 A Objection, that goes beyond laying out

3 1 parameters of the existence of a relationship between
2 attorney and client and starts to approach a content.

3 And based on that I assert the privilege
4 and I won't answer that question.

5 Q BY MR. STOLLER: Same response as before.
6 I'm not asking for content of it.

7 A I'd add a relevancy objection, Your
8 Honor.

9 What difference does it make?

10 THE REFEREE: Thank you folks. The
11 objection's overruled.

12 I'm sorry, the objection's sustained this
13 time.

14 MR. GREENE: Thank you.

15 THE REFEREE: Who contacted whom, I don't
16 really --

17 Q BY MR. STOLLER: When did Mr. Armstrong
18 start his employment with you?

19 A Objection, that's been asked and answered
20 on February 5th. I'm not going to answer the
21 question.

22 Besides which it's also irrelevant to the
23 issues in this lawsuit.

24 MR. STOLLER: If you already answered it
25 what difference does it make if it's on relevancy

4 1 grounds?

2 You see, I'm a new counsel resuming the
3 deposition, I think it's a way of picking up where we
4 left off.

5 A You ought to do your preparation.

6 THE REFEREE: Since there was some
7 ambivalence as to who would be the first witness this
8 morning, let's give the answer and get into this.

9 A It was very clear on the record yesterday
10 that I was going to lead off this morning because we
11 advised you that Phippeny wasn't even going to be
12 here.

13 If Mr. Moxon can't tell his co-counsel
14 what's going on, it's not my fault.

15 THE REFEREE: For a deposition that could
16 take three hours it's going to take five hours. I
17 think there are good reasons to show a bit more
18 cooperation, so let's do it that way.

19 A That question has been answered
20 previously and I will not go over the same ground
21 again.

22 It's in the transcript. Counsel has it
23 in front of him. All he has to do is read it.

24 MR. STOLLER: The Judge indicated you can
25 answer it.

1 A I'm not going to answer.

2 THE REFEREE: We're going to have a great
3 morning, Mr. Greene. We're going to have a great
4 morning. And if you persist in this attitude on the
5 questions that have been asked and answered, just
6 because that's what you think is going to happen, I'm
7 going to be recommending that you be held in contempt.

8 You're a lawyer. You know better than
9 this. There's little love lost on each side of this,
10 but we can have a little cooperation to get this
11 going.

12 I'm not saying I would let 50 questions
13 be asked, but I want this answered.

14 A The question is when did Armstrong start
15 to work for me?

16 THE REFEREE: That's the question.

17 A Early August, 1991.

18 Q BY MR. STOLLER: Were you looking for
19 employees at the time that you hired Mr. Armstrong?

20 MR. BERRY: Objection, Your Honor,
21 relevancy.

22 A That is irrelevant and I resent it.
23 There is no reason why I should have to sit here and
24 be inquired by this attorney with respect to whether I
25 was looking for employees or what I was doing. That

4 1 has no bearing on Yanny II.

2 Besides which he's trying to take
3 discovery for the Armstrong case.

4 MR. BERRY: And it breaches his
5 constitutional protection to privacy.

6 THE REFEREE: What's your thought
7 counsel?

8 MR. STOLLER: My thought is that we start
9 off from a basic that counsel are supposed to avoid
10 any impropriety.

11 Any appearance to impropriety, to the
12 extent that has been shattered a long time ago, and to
13 the extent of trying to determine the relationship in
14 existence -- and this counsel has responded to the
15 contextual background of this stuff -- I think it's
16 appropriate we say Mr. Armstrong became Mr. Greene's
17 client on August 19, 1991.

18 He started his employment in the
19 beginning of August, 1991. I think it's a fair
20 question to get into the understanding of how Mr.
21 Armstrong became employed for Mr. Greene.

22 MR. BERRY: For this plaintiff to take
23 the road about impropriety when they induced the
24 counsel to go behind this lawyer's back, boggles the
25 mind.

4

5

1 THE REFEREE: Thank you folks for your
2 comments.

3 The objection is sustained to this
4 particular question.

5 MR. STOLLER: We'll leave that and come
6 back to it.

7 Q BY MR. STOLLER: On February 5th during
8 the, during your deposition you were asked a question.
9 Did you mention that you were going to be deposed here
10 today to Richard Aznaran? And that was objected to
11 based upon the attorney-client privilege. I would
12 like to re-ask you that question here today.

13 Prior to your deposition of February 5th,
14 1992, did you have any discussions with Mr. Aznaran
15 regarding your deposition?

16 A Judge, this is exactly what I'm talking
17 about. My deposition has been taken in this matter.
18 One session already.

19 The plaintiffs, they desire to do so --
20 they weren't satisfied with an answer I gave, so move
21 to compel. They haven't done that. The time to do
22 that has expired and now they want to replot the same
23 ground.

24 That's asked and answered. And besides
25 which, that is attorney-client privileged material and

5 1 I'm not going to give you an answer.

2 MR. BERRY: That privilege is held by the
3 Aznarans, and they're not here represented by counsel
4 and they should not have their provision invaded
5 without the opportunity to assert the privilege.

6 THE REFEREE: Was it asked and answered?

7 Asked and not answered?

8 MR. STOLLER: Exactly.

9 A Basically if this is going to be a
10 charade where they're going to ask questions that have
11 not been answered because of some type of objection
12 that have been interposed, I believe we're just acting
13 out a charade and we should probably go before Judge
14 Cardenas and have rulings. This is ridiculous.

15 THE REFEREE: Is it your position if a
16 hundred questions were asked at the first session of
17 the deposition and privilege was claimed and sustained
18 at that hearing that you should ask the same hundred
19 questions at a second session of the deposition? Yes
20 or no?

21 MR. STOLLER: To the extent they were
22 sustained, no. To the extent there hasn't been any
23 ruling on them.

24 To the extent these questions were posed
25 and not responded to, I think it's appropriate to be

5 1 able to have an inquiry with you being here to make
 2 rulings on them.

 3 MR. BERRY: Their remedy was to bring a
 4 motion to compel before you within the 45 day period.
 5 They haven't done so. That's fatal.

 6 MR. STOLLER: I disagree with that
 7 position.

 8 MR. GREENE: In fact, Ms. Bartilson was
 9 the person who took that deposition, and she made
 10 comments about how she felt what they were going to do
 11 was to go and attempt to get an order that would order
 12 me to disclose what I consider to be attorney-client
 13 and/or attorney work product information.

 14 That was February 5th. It's now April
 15 8th, two months later. They haven't done anything and
 16 now they want to go back and try to resurrect the
 17 rights that ^{they}~~we~~ have waived. I don't believe that's
 18 correct.

 19 MR. STOLLER: The position's very simple.

 20 Basically this has been referred to a
 21 referee to dissolve the discovery disputes. There was
 22 not a referee present at that proceeding, so I believe
 23 that is appropriate for you to rule on.

 24 THE REFEREE: Was the February 5th, first
 25 deposition, refereed?

5 1 MR. BERRY: No, it wasn't.

2 MR. GREENE: No, it wasn't.

3 MR. BERRY: There should have been a
4 motion.

5 THE REFEREE: That would have been a
6 logical way to do it.

7 You can ask the questions and I'll rule
8 on it if it wasn't refereed before.

9 MR. STOLLER: It was not refereed. That
10 was the whole point of trying to go back and get
11 responses to these questions.

12 THE REFEREE: I agree it's an unusual way
13 to go at it, but if we can get it done keeping in mind
14 the time that remains here.

15 Q BY MR. STOLLER: The question was whether
16 or not Mr. Greene mentioned to Mr. Aznaran that he was
17 going to have his deposition taken?

18 THE REFEREE: That Mr. Greene was going
19 to have Mr. Greene's deposition taken?

20 Q BY MR. STOLLER: The question was whether
21 or not Mr. Greene mentioned that he was going to be
22 deposed prior to the February 5th deposition, to
23 Richard Aznaran?

24 A My response is that has been asked and
25 answered.

5 1 The time to compel has expired. If I had
2 such a conversation it would fall within the scope of
3 the attorney-client privilege and I would not answer
4 it. And I won't.

5 Richard Aznaran at that time was my
6 client, involved in a lawsuit against various
7 Scientology organizations who are the plaintiffs in
8 this case, who are taking my deposition now, and they
9 want to back door their way, or maybe just try to
10 blast the door down into the -- that protects the
11 attorney-client confidences. No way.

12 MR. BERRY: I would have to interpose the
13 objection as an officer of the court on behalf of
14 absent persons, the Aznarans.

15 MR. STOLLER: That's original.

16 MR. BERRY: It's not an original, they
17 have rights which have to be respected.

18 MR. GREENE: As their ^{former} counsel I'm
19 asserting it.

20 MR. BERRY: I'm standing up for their
21 rights as --

22 THE REFEREE: What's your thought?

23 MR. STOLLER: They're going to state the
24 same objections throughout this whole proceeding.

25 We have a situation where we're

5 1 informally requiring as to the basic elements of what
2 transpired between these individuals; the parties, the
3 counsel, et cetera.

4 To the extent they're going to assert an
5 attorney-client privilege, to the extent these are
6 relevant issues that go right to the core of the
7 issues in the litigation, I believe there is no other
8 way to ask the questions to get the responses.

6 9 There has been allegations, as you know,
10 about the impropriety of Mr. Yanny and the infection
11 that his conduct has had in all the litigation.

12 To the extent we have Mr. Greene
13 asserting the attorney-client privilege with the
14 Aznarans, that we have a situation where -- I'm aware
15 of it -- the priest-penitent privilege, we're going to
16 have a lot of discussion where we're not going to get
17 anywhere.

18 The point is are we going to be able to
19 get responses to these questions or not?

20 MR. BERRY: As you know, our law firm
21 does a lot of attorney malpractice litigation. At the
22 heart of those cases are usually conversations between
23 counsel and their clients.

24 At the heart of that litigation are
25 issues which very often cannot be properly probed

6 1 because of the attorney-client privilege, and those
2 cases suffer because of that.

3 The fact that matters are relevant does
4 not render communications suddenly unprivileged.

5 MR. GREENE: Frankly, where is -- I don't
6 think it's relevant whether or not -- without saying
7 that I did or didn't have such a conversation -- what
8 is the relevance of me talking to my client to this
9 lawsuit?

10 THE REFEREE: I'll make --

11 MR. STOLLER: I think basically the
12 attorney-client privilege is basically to avoid the
13 chilling effect so clients can freely discuss the
14 matters with the attorney.

15 To the extent that it's going to allow an
16 attorney to basically disclose information to clients
17 that have adverse interest against a former client and
18 assert an attorney-client privilege -- and I'm not
19 referring specifically to you but Mr. Yanny and all of
20 these proceedings -- the purpose of the
21 attorney-client privilege has been totally shattered
22 here. It's being used for ulterior motives and
23 purposes. It's not to get to the bottom of the issues
24 that are raised in the litigation. That's the simple
25 truth of the matter. That's the bottom line.

1 MR. GREENE: That's your opinion counsel.
2 Your simple opinion counsel.

3 THE REFEREE: Thank you folks.

4 I'm going to make my ruling and give you
5 my reason for it. I'm going to sustain the objection.
6 I think that this can fall within the attorney-client
7 privilege.

8 I don't have -- I have some problem with
9 the relevance, but that really has nothing to do with
10 this. However, I can't see that requiring an answer
11 here would get you anywhere down the line, because
12 while there could conceivably be some question as to
13 whether the mere fact of having a conversation with a
14 client would fall within the attorney-client
15 privilege, certainly anything that was said in that
16 conversation would fall within that privilege.

17 So it's just not, as I see the situation
18 right now, this is just not a road that's going to
19 yield benefit to you.

20 MR. STOLLER: Basically even though it
21 was a foundational question as to whether or not he
22 even had the conversation, you believe it's going down
23 a blind alley because the follow up question as to
24 what was said and what was discussed is going to be
25 objected to, goes to the substance, and would be

6 1 sustained as to any objection raised on that?

2 THE REFEREE: That's my thought.

3 MR. STOLLER: Can we have some type of
4 stipulation or agreement on the record that any of
5 these rulings that you raise, we'll just be able to
6 refer to them if we ever need to bring them back
7 before Judge Cardenas?

8 MR. BERRY: You always have the right to
9 place a motion for denovo review and do what you will
10 with the transcript.

11 MR. STOLLER: I'm talking procedurally on
12 the record.

13 THE REFEREE: I would think we have to
14 take them as they come.

15 I'm not saying that you couldn't
16 formulate a question or a situation couldn't exist
17 that I haven't seen so far that wouldn't entitle you
18 to a different kind of ruling. I'm saying in this
19 particular area, that's the way it looks to me.

20 MR. STOLLER: Formatically I think you've
21 seen all the questions that have been framed. But
22 we'll go ahead and take them case by case.

23 Q BY MR. STOLLER: Prior to your deposition
24 on February 5th did you mention to Vicki Aznaran that
25 you were going to be deposed?

6

7

1 A Counsel, you know what my position is.

2 Q I would like to get it on the record.

3 A I object on the grounds that it's been
4 asked and answered and that the days to move to compel
5 has expired.

6 Two, that it's irrelevant.

7 Three, that it falls within the scope of
8 the attorney-client privilege.

9 Four, that it falls within the scope of
10 the attorney work product privilege.

11 And I refuse to answer that question.
12 And any other and all questions like that.

13 THE REFEREE: To facilitate matters, Mr.
14 Greene, maybe since I think we understand your
15 position, just say on the basis of the reasoning
16 previously stated.

17 MR. GREENE: That's fine.

18 THE REFEREE: I'll sustain the objection
19 on the last two grounds.

20 Q BY MR. STOLLER: I believe I asked you
21 about whether or not you had any discussions with Mr.
22 Armstrong prior to the resumption of your deposition
23 here today.

24 Did you have any discussions with Mr.
25 Armstrong prior to your deposition on February 5th?

7

1 A Objection, vague and ambiguous.

2 Gerry Armstrong works in my office. I
3 talk to him every day.

4 Q Let me rephrase the question for you so I
5 can narrow it.

6 Did you have any discussions with Mr.
7 Armstrong prior to the taking of your deposition on
8 February 5th that was regarding the acceptance or
9 expected testimony of your deposition?

10 MR. BERRY: It would also be attorney
11 work product.

12 A Reserving, if I may reserve, without
13 waiving the attorney-client privilege or the attorney
14 work product privilege, I'm willing to answer that
15 question in order to facilitate these proceedings.

16 If my answer would be construed as a
17 waiver I'm not going to open the door for those
18 people.

19 THE REFEREE: I don't think it would be a
20 waiver, and I'm not taking it as a waiver.

21 A No.

22 Q BY MR. STOLLER: Did Mr. Yanny recommend
23 that Gerald Armstrong work for you back in August of
24 1991?

25 A Objection, attorney-client privilege.

7 1 Attorney work product privilege. I won't
2 2 answer that question.

3 Q BY MR. STOLLER: Where is the
4 3 attorney-client privilege?

5 A Joe Yanny represented Richard and Vicki
6 4 Aznaran until, I believe it was July 25, 1991. At
7 5 which time Judge ~~Edelman~~ ^{Ideman} summarily vacated the Yanny
8 6 substitution and reinstated my representation.

9 Any and all conversations which
10 7 transpired for the purpose of the changing of the
11 8 guard, so to speak, would fall within the attorney
12 9 work product privilege.

13 MR. BERRY: On behalf of Mr. Yanny, I
14 10 join.

15 Q BY MR. STOLLER: My question was
16 11 basically did Mr. Yanny recommend Gerald Armstrong to
17 12 work for you on or about August 1991?

18 A And my answer is that without saying that
19 13 Mr. Yanny did or did not make such a recommendation,
20 14 if he did it would fall within the attorney work
21 15 product privilege and I won't answer that.

22 Q First you said the "attorney-client?"

23 A Attorney-client, attorney work product.
24 16 Two privileges. Two.

25 Q Now, at the time that Mr. Armstrong

1 became your client that was, I believe you said August
2 19, 1991?

3 A No, I didn't.

4 I don't know where you came up with the
5 19th. I didn't say that before.

6 I said August 1991.

7 MR. BERRY: Besides, the record reflects
8 that Mr. Greene was of counsel to the Aznarans prior
9 to that as well.

10 A I was Richard and Vicki's lawyer from
11 February '89 forward until there was a little Van
12 Sickle/Scientology slight of hand.

13 Q BY MR. STOLLER: Basically I'm trying to
14 get an answer from you as to whether or not Mr. Yanny
15 recommended Gerald Armstrong to work for you?

16 A Right, I understand that.

17 And what?

18 Q I'm trying to figure out on what basis
19 you're saying the work product?

20 A Yanny-Aznaran attorney-client.

21 Greene-Aznaran, attorney-client.

22 Anything that was involved in the
23 changing over and substitution of counsel falls within
24 the attorney-client privilege and/or the attorney work
25 product privilege.

7

1 Q So you're saying that somebody's
2 employment is part of the issues or substance that
3 would be involved in the representation of a client?

4 MR. BERRY: It's part of the work
5 product.

6 It's part of the resources.

7 It's like a library, employees, those
8 things are part of the tools and trade~~z~~.

9 MR. GREENE: That is correct.

10 THE REFEREE: I don't see that whether or
11 not somebody is recommended to work for somebody falls
12 in that category.

13 I don't sustain that objection. It's up
14 to you whether you want to answer or not.

15 A I wouldn't answer that question.

16 Q BY MR. STOLLER: Did anybody recommend
17 Mr. Armstrong to work for you?

18 MR. BERRY: Objection, relevancy to this
19 case.

20 THE REFEREE: That objection's overruled.

21 A Would he rephrase the question? I don't
22 understand what your meaning is of "recommend." On
23 that ground it's vague and ambiguous.

24 Was he referred to me?

25 Did somebody say he was a good worker?

1 Was he part of a Joe Yanny instigated
2 conspiracy to sabotage Scientology?

3 Your question is vague and ambiguous.

4 Q BY MR. STOLLER: Based upon the fact that
5 you didn't understand the word "recommend?"

6 A That is correct. I don't understand what
7 your meaning of "recommend" is.

8 Q What is your understanding of the word
9 "recommend?"

10 A Do you have a dictionary and I'll read it
11 to you?

12 Q I'm just asking?

13 A Generally what I do is I refer to the
14 dictionary when I'm uncertain as to the meaning of the
15 term. If you can provide me with a dictionary I'll
16 give you my answer.

17 Q Did anybody suggest to you that you
18 should hire Gerald Armstrong?

19 MR. BERRY: Relevancy.

20 A I'll adopt Mr. Berry's objection.

21 And the answer's no.

22 ~~MR. STOLLER:~~ Without waiving any prior
23 objections.

24 THE REFEREE: Okay.

25 Q BY MR. STOLLER: Did you ever contact Joe

1 Yanny as a potential witness in the Aznaran's case?

2 A Counsel, that's been asked and answered
3 in the February 5th deposition.

4 MR. BERRY: Plus attorney work product
5 privilege.

6 A On both grounds I refuse to answer that
7 question.

8 MR. STOLLER: During the February 5th
9 testimony it was objected to based upon
10 attorney-client and work product privilege. There was
11 no referee present.

12 MR. GREENE: The time to move to compel
13 is expired. You're too late counsel.

14 THE REFEREE: Thank you folks. Objection
15 sustained.

16 MR. STOLLER: On the grounds?

17 THE REFEREE: Same as before.

18 MR. STOLLER: That you believe it's
19 attorney-client?

20 THE REFEREE: I believe it's
21 attorney-client or it could be, I think, work product.
22 It's hard to say.

23 MR. STOLLER: Even though it's a
24 foundational question to the extent of whether he's
25 ever contacted Yanny, I'm not asking the substance of

8 1 any conversation or anything like that.

2 THE REFEREE: I know, but I can't see
3 that it's going to lead to anything.

4 It's the same approach as we have talked
5 about before.

6 Q BY MR. STOLLER: From whom did you find
7 out that Yanny had formally been counsel for the
8 plaintiffs in this case?

9 A No one.

10 Q How did you find out that Yanny was
11 counsel, from your clients, without getting into
12 substantive conversations?

13 A Would you rephrase your question please?

14 Q You stated that no one told you that
15 Yanny had formally been counsel to the plaintiffs in
16 this case?

17 A In Yanny II? Okay.

18 MR. BERRY: Assumes facts not in
19 evidence.

20 THE REFEREE: What was your answer?

21 A My answer was no one told me.

22 It's a matter of public record in Aznaran
23 versus the Church of Scientology of California as
24 being the predicate upon which defendants brought
25 their motion, which was granted, to disqualify the law

8 1 firm of Cummins & White from acting as counsel for
2 Vicki and Richard Aznaran.

3 Q BY MR. STOLLER: Are you indicating that
4 you searched the public records and found out that
5 information?

6 A I'm telling you that's where it became
7 very clear to me what the situation was with respect
8 to the representation of the Aznarans. Why they
9 didn't have a lawyer. And why --

10 And the reason why they didn't have a
11 lawyer was because the lawyer that they did have also
12 represented Joseph Yanny.

13 And that the reason for the
14 disqualification was that since Yanny formerly had
15 been counsel for Scientology there was an appearance
16 of impropriety with respect to the potential for a
17 spillover of Yanny-Scientology confidences to Barry
18 Van Sickle, then to the Aznarans.

19 Q I understand the background.
20 What I'm asking is how you obtained the
21 information in the public records?

22 MR. BERRY: Relevance.

23 The record is clear. Mr. Greene took
24 over the representation of the Aznarans at that point,
25 and probably did his due diligence by reading the

1 file.

2 MR. STOLLER: That calls for speculation.

3 A I read the file. I read the motions.

4 MR. STOLLER: Thank you.

5 Q BY MR. STOLLER: During the period of
6 time where you were not representing the Aznarans, in
7 I believe June or July of '91, did you have any
8 discussions with Mr. Yanny?

9 A No.

10 Q Did you have any discussions during that
11 same time period when you were not representing the
12 Aznarans --

13 A Wait. I may have had one discussion.

14 The answer is I'm not sure. I may have
15 had one discussion where Joe Yanny told me that he was
16 going to step into the Aznaran case.

17 No, ~~only~~ I change my answer. Yes, I had
18 one discussion with Yanny in, it would have been late
19 June or early July --

20 Wait. Sorry. I'm going to change it
21 again. Two discussions. The first one was late June
22 or early July. And the second one was the second or
23 third week of July.

24 The first conversation Yanny called me,
25 told me that he was going to represent the Aznarans.

8

9

25

1 The second conversation was an inquiry
2 whether I would work for the Aznarans again. Two
3 conversations.

4 THE REFEREE: This is all what, '89?

5 MR. GREENE: No, this would be '91, that
6 was last summer.

7 Q BY MR. STOLLER: Were these telephone
8 conversations in your office?

9 A Was I in my office when I talked to them
10 on the telephone?

11 Yes.

12 Q BY MR. STOLLER: That is correct.

13 MR. BERRY: I would interpose a general
14 objection to this line of questioning, that it's
15 attorney work product.

16 THE REFEREE: I note the objection. Go
17 ahead.

18 A (No response)

19 Q BY MR. STOLLER: Were these conversations
20 held over a speakerphone?

21 A In my office?

22 Q Yes.

23 A No.

24 Q Was anyone else with you when you had
25 your conversation with Mr. Yanny in your office?

1 A No.

2 Q Were you aware of whether Mr. Yanny had
3 the conversation on his speakerphone from wherever he
4 was talking to you from?

5 A No, I was not aware.

6 Q During the time period of June-July 1991,
7 when you were not representing the Aznarans, did you
8 speak with anyone from Mr. Yanny's office?

9 A No.

10 THE REFEREE: You mean while he was in
11 Mr. Yanny's office?

12 MR. STOLLER: No, anybody from his
13 office?

14 A No.

15 Q BY MR. STOLLER: After you resumed your
16 representation of the Aznarans did you speak with Mr.
17 Yanny?

18 A Yes.

19 Q When?

20 A Towards the end of July.

21 Q Any other conversations other than the
22 one mentioned at the end of July?

23 A Excuse me?

24 Q After you resumed your representation of
25 the Aznarans --

9 1 I asked you whether or not you had any
2 conversations with Mr. Yanny and you testified that
3 you did at the end of July.

4 My question is did you have any
5 subsequent conversation other than the one that you
6 just testified to?

7 A Sure.

8 Q Do you know how many?

9 A Geez, I don't know. Half a dozen, a
10 dozen. It's hard to say.

11 You have to understand that Joe Yanny, I
12 consider him to be a friend. And so I will talk with
13 him from time-to-time as a friend.

14 You have to understand that we're also
15 both litigating, as you know, adversely to the
16 Scientology organization. And with respect to those,
17 that commonly held position, there will be
18 conversations in that regard also. Conversations with
19 Mr. Berry and Mr. Parker in that regard.

20 All those conversations would, with
21 respect to what we share in common as embroiled in
22 litigation adverse to the Scientology organization,
23 would be the subject of a joint defense privilege. If
24 you want to ask questions about it, that's what your
25 answer's going to be with respect to those types of

9 1 conversations.

2 With respect to conversations that
3 occurred between Joe Yanny and I as to the changeover
4 of representation with respect to the Aznarans, those
5 conversations would fall within the attorney-client
6 and/or attorney work product privilege.

7 If you're going to ask me questions about
8 those, that's what my answer's going to be. And I'm
9 not going to answer any questions about substance or
10 the content of communication.

11 If you want to ask me questions about
12 what Joe Yanny and I talk about as friends, you go
13 ahead.

14 MR. STOLLER: I don't think I would be
15 quite that interested in things you would have talked
16 about as friends.

17 I appreciate your narrative to admonish
18 me as to the types of objections you would raise. Let
19 me ask the questions and you can interpose the
20 objections.

21 MR. GREENE: Go ahead.

22 Q BY MR. STOLLER: To the extent you said
23 you had between six or a dozen discussions with Yanny
24 subsequent to your resuming the representation of the
25 Aznarans, do you recall what period of time those

9 1 conversations took place?

2 A Between then and now.

3 Q I believe you testified that the first
4 conversation you recall took place at the end of July?

5 A Yes, that's correct, the first
6 conversation.

7 Q Was anyone else there when you had this
8 conversation with Mr. Yanny?

9 A No.

10 Q Where did the conversation take place?

11 A In between Marin County and Los Angeles.

12 Q Was it on the telephone?

13 A Yes.

14 Q Do you recall what you said or discussed
15 with Mr. Yanny during that telephone conversation?

16 MR. BERRY: Objection counsel. Could you
17 be --

18 Vague and ambiguous. Since this is such
19 a -- would you specify as to which?

20 With regard to the Aznarans it's clearly
21 attorney-client.

22 MR. STOLLER: I don't know what he
23 discussed on the telephone with Mr. Yanny.

24 To the extent he said he had a
25 conversation with Mr. Yanny subsequent to his

9 1 resumption of the representation at the end of July
2 2 1991, I'm asking for the substance of the
3 3 conversation.

4 A I'm interposing the attorney-client
5 5 privilege and work product privilege, and telling you
6 6 I'm not to going to answer that.

7 MR. STOLLER: To save the reporter's
8 8 fingers I'm asserting the same position as before.

9 THE REFEREE: I'm making the same ruling.
10 10 Sustained.

11 My reasoning in part is because you have
12 12 said logically that you're not interested in just a
13 13 friendly conversation that they might have talked
14 14 about; that your questions are directed to other
15 15 content, is that correct?

16 MR. STOLLER: Yeah, but after the court
17 17 or the Judge's further indication I think I might be
18 18 interested -- maybe it might be illogical.

19 Q BY MR. STOLLER: Why don't you tell us
20 20 what you might have said on a social context?

21 A We shared common interest in female
22 22 humans, body surfing, sports, philosophical ideas,
23 23 justice.

24 Q Does that include --

25 A Truth.

1 Q I didn't see that you were not done?

2 A Things of that nature. So really from
3 the mundane to the sublime.

4 Q During your conversation with Mr. Yanny
5 at the end of July 1991, after you resumed
6 representation of the Aznarans, did you talk about
7 anything of a social context with Mr. Yanny?

8 A No.

9 MR. STOLLER: I'd like to take a two
10 minute break if that's alright with everybody?

11 THE REFEREE: Take a five minute break if
12 you want.

13

14 (Recess taken.)

15

16 MR. STOLLER: Let's shift gears here a
17 second.

18 Let this be Exhibit 8. (Indicating)

19 I will show you what I've marked as
20 Exhibit 8.

21 MR. GREENE: It's already an exhibit.

22 MR. STOLLER: I don't have the exhibits
23 with me.

24 MR. GREENE: This is Exhibit 1 that you
25 just passed to me.

10 1 Q BY MR. STOLLER: Do you have any problem
2 with remarking it as another exhibit?

3 A It's your deposition.

4 MR. STOLLER: We'll just mark this as
5 Exhibit 8.

6
7 (The document referred to was
8 marked by the CSR as Exhibit 8 for
9 identification and attached to and
10 made a part of this deposition.)
11

12 Q BY MR. STOLLER: Mr. Greene, if you would
13 please review Exhibit 8 that I presented to you, it's
14 a Substitution of Attorney, United States District
15 Court, Central District, State of California, in the
16 Aznaran versus Church of Scientology California
17 matter?
18

19 (Pause in proceedings.)
20

21 A Okay.

22 Q BY MR. STOLLER: Is that your date on the
23 bottom of the Substitution of Attorney? (Indicating)

24 A It appears to be.

25 You're referring to the date of "6/7/91?"

0 1 Q I was just referring to your name. Is
2 that your signature?

3 A I thought you said "date."

4 Q Is that your handwriting next to the
5 date? (Indicating)

6 A That is my signature at the bottom of the
7 page.

8 Q Is that your handwriting next to the
9 date?

10 A It says "6/7/91," yes.

11 Q Did you sign it on that date, as
12 indicated?

13 A To the best of my recollection I did.
14 It's also my interlineation with the
15 abbreviation of "Blvd." for boulevard after "Drake."
16 (Indicating)

17 Q And also striking out the address after
18 the "11?"

19 A I guess.

20 I assume that it was. I assume that was
21 me.

22 MR. STOLLER: Let me show you what has
23 been next marked as Exhibit 9.

24 ///

25

1 (The document referred to was
2 marked by the CSR as Exhibit 9 for
3 identification and attached to and
4 made a part of this deposition.)
5

6 MR. STOLLER: Which is probably Exhibit
7 2.

8 MR. GREENE: And all of my answers with
9 respect to 9 track those which I just provided with
10 respect to 8.

11 Q BY MR. STOLLER: Indicating that that's
12 your handwriting next to the date? (Indicating)

13 A Handwriting, dates and interlineation.

14 Q And that's your signature on the bottom?
15 (Indicating)

16 A Correct.

17 And to the best of my recollection I did
18 in fact execute this document on the date indicated,
19 June 7, '91.

20 Just, also for the record, I notice on
21 both of these there appears to be some writing
22 underneath "Substitution of Attorney," and also some
23 writing putting in "JMI" by the case number.

24 (Indicating) Neither one of those are mine.

25 Q Are your handwriting?

1 A That is correct.

2 Q I understand that. Thank you.

3 Prior to the execution of the
4 Substitution of Attorney that has been marked as
5 Exhibit 8 and 9, did either of the Aznarans mention to
6 you that they were looking for another attorney in the
7 case?

8 A Objection, this was testified to
9 previously on February 5th, 1992.

10 And my response today is the same as it
11 was then, which is I object based on the
12 attorney-client privilege and/or attorney work product
13 privilege, and I refuse to answer the question.

14 Q When I ask you these questions to the
15 extent that you've asked and answered them, you have
16 answered and objected and refused to respond to them?

17 A I've given you my response.

18 MR. STOLLER: Which is basically an
19 objection and a non-response based upon the objection.

20 To the extent that we're going to address
21 those objections with the Judge, I don't believe any
22 of these had responses other than appropriate
23 objections that you may or may not have raised --

24 MR. GREENE: The record will speak for
25 itself.

10 1 Q BY MR. STOLLER: To the extent you've
2 answered I'll just refresh your recollection to the
3 previous transcript.

4 In fact, the June 5th transcript
5 indicated --

6 A February 5th.

7 MR. STOLLER: I believe I said February.

8 MR. GREENE: You said June.

9 MR. STOLLER: To the extent that the
10 deposition, the proceeding of February 5th, that
11 question was asked, but it was not answered.

12 It was objected to based upon the same
13 representation as, Mr. Greene has stated to you today.

14 MR. BERRY: He's consistent.

15 THE REFEREE: What was the question
16 again?

17 MR. GREENE: Whether or not the Aznarans
18 advised me prior to June 7, '91 that they were looking
19 for other counsel.

20 My response was --

21 THE REFEREE: I know what your response
22 was.

23 Alright. Sustained.

24 Q BY MR. STOLLER: Without getting into the
25 substantive conversations that you feel that you might

10 1 have had with -- let me ask the foundational.

2 Did you have any conversations regarding
3 the topic of your clients substituting you out? Not
4 so much the context of what was said, but just the
11 5 topic of that conversation.

6 Were there such discussions with your
7 clients prior to you being substituted out?

8 A Counsel, to respond in terms of the topic
9 is the equivalent of disclosing substance.

10 So my objections are one, asked and
11 answered.

12 And then the two attorney objections.

13 Q The reason I ask you that is to the
14 extent that some of that disclosure has already been
15 waived in declarations that have been filed by you,
16 one of them on August 1, '91, another one --

17 MR. BERRY: Why don't you ask him about
18 what he said in his declarations?

19 A You can make your speech but I'll answer
20 your questions or otherwise respond to them.

21 Q BY MR. STOLLER: -- August 1991 regarding
22 various papers that were filed by you.

23 To the extent that you've already waived
24 some of that discussion, is it your position that you
25 refuse to answer based upon the fact that it's

1 attorney-client?

2 A You ask me a question, I'll give you a
3 response.

4 I'm not going to try to respond to vague
5 and ambiguous assertions, particularly when they
6 pertain to what you claim is a waiver of the
7 attorney-client privilege.

8 Q Did you have a discussion with your
9 clients prior to being substituted out in which you
10 discussed the fact that you were a sole practitioner
11 and didn't have the resources to support or
12 effectively conduct a lengthy trial to represent their
13 interests?

14 MR. BERRY: If you're reading from a
15 declaration of the deponent I would ask you to give
16 him the courtesy of showing him what you're reading
17 from.

18 MR. STOLLER: I'm not reading directly
19 from it. I might be taking comments and thoughts from
20 it.

21 A What are you referring to counsel?

22 MR. STOLLER: August 1st, 1991, your
23 declaration regarding the association of John Clifton
24 Elstead as trial counsel, paragraph 2.

25 MR. GREENE: Do you have an exhibit

11 1 number on that?

2 MR. STOLLER: I just have this as a
3 declaration that was taken from those papers.

4 MR. GREENE: Would you provide me with an
5 opportunity to review?

6 MR. STOLLER: Here is a copy of it for
7 you to take a look at. (Indicating)

8 MR. GREENE: Thank you.

9 Q BY MR. STOLLER: Can you take a look at
10 paragraph 2 and 3, I'd like to ask you some questions
11 about that?

12 Actually paragraph 2, 3 and 4?

13 A Hold on, let me read the entire
14 declaration, okay?

15 MR. STOLLER: Certainly.

16

17 (Pause in proceedings.)

18

19 MR. GREENE: What's your question?

20 Also, why don't we mark this as exhibit?

21 Since you're going to examine me based on this
22 document it should be an exhibit in the record.

23 Q BY MR. STOLLER: Not necessarily.

24 To the extent that I'm asking you about
25 conversations or things that you might have discussed,

1 I'm not really trying to reexamine you as to what you
2 stated here in the declaration but as to when you
3 might have had conversations regarding the matters
4 stated in your declaration?

5 A Okay.

6 I still think if you're using this
7 document it should be a part of the record, but go
8 ahead.

9 Q In paragraph 2 when you said you
10 consulted with both of your clients and with John
11 Elstead, do you recall when you contacted or consulted
12 with your clients and contacted Mr. Elstead?

13 A That would have been within probably a
14 week preceding that week, to ten days preceding that.

15 Q Preceding the substitution?

16 A No, preceding August 1st, 1991.

17 I'd say some time between July 26, '91
18 and August 1st, '91.

19 Q Was it one conversation, was it several
20 conversations and when you discussed this information?

21 A With whom?

22 Objection, vague and ambiguous.

23 Q Did you have one, more than one
24 conversation with your clients and Mr. Elstead
25 regarding the fact that you were a sole practitioner

1 and that you were not able to provide the resources or
2 the necessary support to conduct the trial?

3 A Objection, vague and ambiguous.

4 Compound.

5 Break it down counsel.

6 Q Are you refusing to answer?

7 A Yes, unless you break the question down I
8 am.

9 Q You indicated that you consulted with
10 your clients and Mr. Elstead prior to August 1st,
11 approximately a week to two weeks before discussing
12 the matters that have been stated in paragraph 2, is
13 that correct?

14 A Objection, you're asking me to comment on
15 my own testimony. The record will speak for itself.

16 I'm not going to comment on testimony
17 given before. Ask me questions, I'll give you
18 responses.

19 Q I'm just trying to move along as quickly
20 as possible.

21 To the extent I asked you a question that
22 preceded this as to whether you might have had
23 discussions with Mr. Elstead and your clients as to
24 the fact that you would not be able to provide the
25 necessary support for the trial, you gave me a date.

12 1 Now I'm asking you if this was one
2 conversation or several conversations?

3 A With Elstead? With the Aznarans? With
4 both?

5 Your question is vague and ambiguous.

6 Q Did you have more than one conversation
7 with Mr. Elstead regarding the matters that are set
8 forth in paragraph 2?

9 A Probably.

10 Q You at least had one, is that correct?

11 A That's right.

12 Q That took place sometime around July 26
13 through August 1st?

14 A That is correct.

15 Q Was that a conversation on the telephone?

16 A I am not sure whether it was on the
17 telephone or whether it was face-to-face.

18 Q You just don't have a recollection. You
19 recall having a discussion with him --

20 A I know that I met with John face-to-face.

21 I know that I have had telephone
22 conversations with him. I cannot particularly
23 ascribe --

24 Actually, I believe the conversation that
25 I had with Mr. Elstead was in his office,

12 1 face-to-face.

2 Q Do you recall when that was?

3 A The end of July. I don't recall the
4 precise date, no.

5 Q Was anyone else present during that
6 meeting?

7 A No.

8 Q Do you recall having a telephone
9 conversation with Mr. Elstead?

10 A I've had a number of telephone
11 conversations with Mr. Elstead because we're counsel
12 together.

13 Q Subsequent to your meeting with him in
14 his office?

15 A I don't know.

16 Q When do you recall having a meeting --

17 When do you recall having discussions
18 with your client regarding the content of paragraph 2?

19 A Sometime within the period of time
20 between 7/26/91 and 8/1/91.

21 Q Was anyone else present?

22 Was this a face-to-face meeting or
23 telephone conversation?

24 A The latter.

25 Q By the way, how did you become aware of

12 1 the court's order reinstating you as the counsel for
2 the Aznarans?

3 A I think I got a call from a reporter.

4 Q Did Mr. Yanny call you?

5 Do you recall if he called you and
6 informed you of the ruling?

7 A I don't think so.

8 MR. BERRY: Asked and answered.

9 A I'll answer it anyway.

10 I don't think so. I believe it was a
11 reporter that called me.

12 Q BY MR. STOLLER: Do you know who the
13 reporter was from?

14 A It was some local L.A., perhaps legal
15 oriented paper. I don't remember the name of the
16 paper or the reporter.

17 Q What did you do after you received notice
18 of the court's order reinstating you as the attorney
19 of record for the Aznarans?

20 A Counsel, that's a terrible question.

21 Do you want to rephrase it? What did I
22 do when?

23 Q When you received notice that you were
24 the counsel of record, that you were being reinstated
25 as the counsel of record?

1 A I read the order.

2 Q In other words, you did not receive
3 notice of the court's ruling that you were being
4 reinstated as the attorney of record for Aznarans
5 until the reporter contacted you, is that correct?

6 A I believe that is correct.

7 Q Was that surprising to you?

8 A Was I surprised that that took place?

9 MR. BERRY: That's attorney work product.

10 A That calls for an impression. That does
11 call for a work product.

12 I'm going to assert that objection. I
13 won't answer.

14 MR. BERRY: Work product includes
15 impressions, thought processes.

16 THE REFEREE: Whether or not a person is
17 surprised?

18 MR. GREENE: That certainly is a mental
19 impression.

20 THE REFEREE: But it's kind of like is
21 the sun shining? I think you can answer that. It's a
22 yes or no certainly.

23 Yes, I think you can answer it. The
24 objection's overruled.

25 A I don't know if I was surprised or not.

12 1 Q BY MR. STOLLER: I'm inclined to ask you
2 if you were happy, but I don't think any litigator
3 likes to know that they have to be back and put on a
4 trial in short --

5 A I knew that I could anticipate receiving
6 five to 10 pounds of motions in the near future. So I
7 got my scale out.

8 Q In paragraph 3 of that same --

9 A Since you're referring to this now, would
10 you please make this an exhibit so that the record is
11 complete? (Indicating)

12 Q Why don't you wait until you hear my
13 question, then you can make a determination whether or
14 not the record will be complete with or without it?

15 In your declaration you're making a
16 statement as to the, "over the course of the past two
17 months there have been changes in plaintiff's legal
18 representation. Such has not been for the purposes of
19 delay."

20 That two-month period, are you talking
21 about the period of time that you substituted out and
22 had your clients in pro per, and then that the court
23 reinstated you as the attorney of record?

24 MR. BERRY: Objection, misstates the
25 testimony. He never testified that he had the clients

12 1 in pro per.

2 MR. STOLLER: I'm asking him that.

3 I'm asking him if that two-month period
4 is the period of time that those circumstances or
5 events took place?

6 A The question is kind of vague.

7 But to answer it as best I can, the
13 8 period of time to which I made reference commenced
9 6/7/91 through the end of July, beginning of August,
10 '91.

11 Q BY MR. STOLLER: Did you have any
12 discussions with your clients after you were relieved
13 of your representation in which you discussed their
14 efforts and obtaining counsel?

15 A The problem with your question is that
16 you don't close in the hind end of it.

17 If you're making a reference to the
18 period of time after I was relieved and before I was
19 reinstated, I can answer your question.

20 Q I'll adopt narrowing the question.
21 That's fine.

22 A The answer's no.

23 Q Do you want to keep that? That's fine.

24 By the way, I just had a couple of follow
25 up questions with Mr. Armstrong so we can complete

3 1 that.

2 And that had to do with you hired him as
3 a paralegal, is that correct, in your office, in the
4 nature of his employment?

5 A It's a hard question to answer, because I
6 don't know what you mean when you say "paralegal."

7 I can tell you this, I hired him to
8 assist me in assembling documents.

9 Assembling exhibits.

10 Going to the Post Office. Doing that
11 kind of stuff. Engaging in those kind of duties.

12 If the performance of activities such as
13 that in your view constitute paralegal activities, the
14 answer is yes.

15 Q Basically probably the designation of
16 paralegal would be inappropriate to the extension that
17 you can itemize the functions that he does for you in
18 the office would be probably more illuminating.

19 That's the manual assembling of
20 documents?

21 A That is correct.

22 Q Does it include any word processing or
23 typing?

24 A You see counsel, right now -- I'm loath
25 to answer your question because you're going to start

13 1 getting into what the internal procedures are in my
2 office. And I'm not going to tell you that because
3 that's work product material.

4 I'm not going to answer that question,
5 because if I do you'll probably go on to say it's a
6 waiver, and I'm not going to take that step.

7 MR. STOLLER: I think it's probably more
8 of a stimulous response mechanism on your part.

9 To the extent you have an individual that
10 is working with you -- and we're not trying to find
11 out the substantive stuff that he's working on -- but
12 generally his duties and what kind of stuff he's
13 answered on, I have to defer to the Judge.

14 MR. BERRY: I interpose a relevancy
15 objection.

16 THE REFEREE: I'm not sure what this can
17 lead to, but I would think you can answer with respect
18 to whether or not he was doing mechanical duties?

19 A He was.

20 And I've told him that. He was doing
21 mechanical duties.

22 Q BY MR. STOLLER: Was he doing any word
23 processing or typing or anything of that nature in
24 preparation of documents?

25 A No.

3 1 Q What kinds of matters do you have him
2 working on?

3 Is he working on litigation matters or
4 transaction matters?

5 A That's none of your business. That's
6 work product material. I'm not going to answer those
7 questions.

8 Besides, it's irrelevant to this
9 case.

10 MR. STOLLER: I believe it's a
11 foundational question and I believe the relevancy
12 is --

13 MR. BERRY: Your own Mr. Moxon and Ms.
14 Bartilson makes a habit of me proving the relevancy
15 myself.

16 Can we have an offer of proof on this?

17 Q BY MR. STOLLER: Were you aware prior to
18 hiring Mr. Armstrong that Mr. Armstrong was a
19 paralegal for Mr. Yanny?

20 A Objection, that assumes a fact that's not
21 in evidence.

22 Q I'm asking if you were aware of that
23 fact?

24 A I know, and I'm telling you that your
25 question assumes a fact not in evidence and that there

1 is no foundation for it, and I won't answer it until
2 you clean it up.

3 Q Were you ever aware of Mr. Armstrong
4 working for Mr. Yanny at any time?

5 A No.

6 Q You were never aware of that fact?

7 A That is correct.

8 MR. STOLLER: The offer of proof is
9 basically -- notwithstanding Mr. Greene's response to
10 the previous questions -- that we believe that there
11 is sufficient evidence to show that Mr. Armstrong was
12 represented as a paralegal by Mr. Yanny.

13 And to the extent that now he's a
14 paralegal for Mr. Greene, I believe it's appropriate
15 inquiry to find out the types of work -- not getting
16 into the substance aspect of the cases -- but the
17 types of cases that he's working within Mr. Greene's
18 office.

19 MR. GREENE: This man wants to find out
20 what the substance and content of my practice is.
21 He's not going to do it.

22 MR. BERRY: If he wants to disqualify
23 anyone from the Aznaran case based on the work of a
24 paralegal in Mr. Greene and Mr. Yanny's office he has
25 to do that in the context of that litigation. It has

13 1 no relevance in this litigation.
14

2 MR. STOLLER: Finding out whether or not
3 appropriate motions are available one needs to find
4 out the --

5 MR. GREENE: Discovery is closed. It's
6 too late.

7 MR. BERRY: You do it by discovery in
8 that it says --

9 THE REFEREE: Thank you folks. Objection
10 sustained.

11 By that ruling I don't think I'm
12 precluding your asking in a general way whether he did
13 any duties, any work other than mechanical work.
14 Though you certainly wouldn't be able to go into
15 specifics.

16 MR. STOLLER: I will adopt the Judge's
17 question.

18 MR. GREENE: I don't understand the
19 question.

20 THE REFEREE: A bitter blow.

21 Q BY MR. STOLLER: Dr. Mr. Armstrong
22 perform any other duties than a mechanical function,
23 as you previously testified to, as a capacity, as an
24 employee with your firm?

25 A I believe Gerry executed a couple of

14 1 declarations, so that would not fall within a strict
2 definition of "mechanical duties."

3 Q That would also not fall within the
4 definition of an employee for your firm, would it?

5 A I don't know.

6 If I have an employee, if I have somebody
7 who is pretending to be sick rather than submitting to
8 a deposition and I send my employee to someplace where
9 I know this person is going to be, and that employee
10 executes a declaration, is that an employee or not
11 an employee? I don't know how to answer your
12 question.

13 Q Let's not speculate.

14 Do you have a recollection of whether or
15 not Mr. Armstrong has performed any other duties other
16 than the mechanical duties that you previously
17 testified to in his capacity as an employee for you?

18 A I believe he's executed two declarations.

19 Q Were those as parties to litigation or as
20 an employee of your firm in some functionary manner?

21 A Those declarations were with respect to
22 the Aznaran litigation.

23 Let me fill it in for you here counsel.
24 I believe one pertained to the -- to use your term --
25 "infection" associated with Joseph Yanny.

14 1 And I believe the other was with respect
2 to the authentication of two or three documents. All
3 of that is a matter of public record.

4 Q Were these prepared as an employee within
5 your firm?

6 A Were these -- I don't understand your
7 question.

8 Q In other words, you have him working in
9 your office doing various functions.

10 Was he required to prepare these
11 declarations as a result of his employment with your
12 firm?

13 MR. BERRY: Isn't that work product?

14 MR. STOLLER: I'm sorry.

15 A Counsel, the declarations that he
16 executed he executed.

17 The reasons why he executed them or
18 anything having to do with my thinking with respect to
19 why he executed them, is privileged. And I won't
20 answer that.

21 Q BY MR. STOLLER: To the extent that it's
22 trying to be an innocuous question, to find out if he
23 was doing it from the position of being an employee or
24 being somebody who had relevant information to give to
25 the case, again, I'm not trying to get into the mental

14 1 impressions or the legal work product as to why you
2 utilized him.

3 I'm looking to see whether or not that
4 was something, if it was not the Aznarans or any other
5 case, you would have considered him an employee doing
6 this as a function for that case?

7 A That calls for speculation.

8 It's unintelligible, compound, vague.

9 MR. BERRY: It's irrelevant to the issues
10 in this litigation.

11 MR. GREENE: I join in that objection
12 also.

13 THE REFEREE: I would sustain just as to
14 the form of the question.

15 Q BY MR. STOLLER: Was Mr. Armstrong
16 required to file the declarations in the Aznaran
17 matter that you just testified to as a requirement of
18 his employment with you?

19 A I assert the attorney work product
20 privilege. I'm not going to answer that question or
21 questions like that.

22 Q I basically think that the question is
23 framed to reflect whether or not it was done as part
24 of his employment or some other capacity.

25 THE REFEREE: It can be work product.

4 1 And I'll sustain it on that basis.

2 Q BY MR. STOLLER: It can be a lot of
3 things.

4 The question is whether or not we're
5 trying to find out what's going on or not?

6 THE REFEREE: That's the problem when we
7 get in this work product area. It's not a very
8 satisfactory area.

9 Just to try to clarify my muddy thinking
10 for you, since it can be work product and since
11 they're claiming it's work product, I feel like I
12 should sustain the objection.

13 MR. STOLLER: Okay.

14 Q BY MR. STOLLER: When did you first learn
15 that Joseph Yanny would be representing the Aznarans?

16 A At the point of that telephone call I
17 mentioned earlier, which took place, to the best of my
18 recollection, toward the end of June 1991.

19 Q Where you said "that phone call," I don't
20 recall which phone call you're referring to?

21 A I'm sorry.

22 Q That was the end --

23 When you say "that phone call" I'd like
24 you to specify, if you can recall, what phone call
25 that is?

5 1 A I object as asked and answered.

2 I just told you the phone call that took
3 place at the end of June 1991.

4 MR. STOLLER: Judge, am I going to be
5 able to get a definite response from this witness to
6 the extent that there is certain conversations that
7 he's indicated he's had, that he refused to answer
8 because of the substance of them were attorney-client
9 or work product?

10 It's very clear that there has been
11 several different types of phone calls, and to the
12 extent that he refers to "that phone call" as a
13 response, I believe I'm entitled to find out
14 specifically which one he's referring to. To make a
15 clear record here.

16 MR. GREENE: The record is clear. I
17 already testified to this. If counsel can't remember
18 the questions he asked me an hour ago --

19 THE REFEREE: You have this problem
20 because I'm not remembering either.

21 MR. GREENE: You asked me before whether
22 or not I spoke with Joseph Yanny during the period of
23 time wherein I was not representing the Aznarans in
24 June and July of 1991.

25 My response to you was yes. I spoke with

15 1 him twice. I said the first time I spoke with him was
2 when he called me when no one else was present and
3 advised me that he was going to be entering the
4 Aznaran case on their behalf.

5 Do you remember that counsel?

6 MR. STOLLER: Uh hum.

7 Q BY MR. STOLLER: You were talking about
8 that first conversation with Mr. Yanny?

9 A Exactly.

10 Q Not the subsequent one.

11 MR. BERRY: I object, they call for the,
12 I'd assert the attorney work product privilege on
13 behalf of Mr. Yanny and the attorney-client privilege
14 on behalf of his then clients.

15 MR. STOLLER: How did I guess?

16 MR. BERRY: It's a track record.

17 Q BY MR. STOLLER: Who originated that
18 telephone conversation?

19 A Joe did. He called me.

20 Q Did you talk to Barry Van Sickle
21 concerning the Aznaran case at any time prior to you
22 substituting out in June of '91?

23 A Yes.

24 Q When do you recall talking to Mr. Van
25 Sickle?

15 1 A A number of times when I substituted in
2 on behalf of the Aznarans; obtained the file from
3 Cummins & White, February 1989.

4 Q Did you have any subsequent conversations
5 after substituting in?

6 A Yes.

7 Q When was that?

8 A Sometime afterward, I can't tell you
9 precisely when.

10 Q How many conversations do you think you
11 had with Mr. Van Sickle from the time that you
12 substituted in on the Aznaran case on or about
13 February of '89, 'til the time you substituted out in
14 June of 1991?

15 A It's difficult to say. I'm not sure.

16 Q More than five?

17 A I'd say somewhere between six and 12.

18 Q Do you recall the general discussions
19 that you had with Mr. Van Sickle during these six or
20 12 conversations, rather than to piecemeal them since
21 you don't have a specific recollection as to the
22 timing on these?

23 A Do I recall generally about what we
24 spoke?

25 Q Yes.

1 A Generally, yes.

2 Q What was said?

3 A I assert the attorney-client privilege
4 and the attorney work product privilege, and an
5 objection based on relevancy, and refuse to answer.

6 MR. BERRY: Furthermore, the
7 attorney-client privilege belongs to the Aznarans, who
8 are not represented here today.

9 MR. GREENE: Indeed, it does.

10 MR. STOLLER: I assume you're going to
11 sustain it?

12 THE REFEREE: Yes.

13 MR. STOLLER: I'm making my record.

14 THE REFEREE: That's fine.

15 Q BY MR. STOLLER: Did you have any
16 discussions with Karen McRae concerning the Aznaran's
17 case prior to your substituting out in June of 1991?

18 A Yes.

19 Q Do you recall when you first had a
20 conversation with Ms. McRae?

21 A Probably May '89. May or June.

22 THE REFEREE: You mean on that subject?

23 A No subject. Fact of a conversation.

24 MR. STOLLER: Of a conversation.

25 THE REFEREE: Alright.

15 1 MR. STOLLER: He's not asleep at the
2 switch here. Don't worry about that.

3 Q BY MR. STOLLER: Do you recall how many
4 conversations you had from the time you first spoke
5 with Ms. McRae in May of '89 until the time that you
6 substituted out of the Aznaran's case in June of '91?

7 A How many conversations I had with her?

8 Q Yes?

9 A In general or with respect to the
10 Aznarans or what?

11 Vague and ambiguous. Can you clean it
12 up?

13 Q No, it's not --

14 I asked you specifically the best you
15 recall how many conversations you had with Karen McRae
16 from May of 1989 through June of 1991?

17 A I have difficulty answering that question
18 for this reason --

19 Q Was it more than five?

20 A I don't know what you mean when you say
21 "conversations."

22 If we go out to lunch and we start to
23 talk and we talk about something, and one of us goes
5 24 to the men's room and comes back and we talk about
25 something else, is that one or two conversations?

6 1 Q What would you characterize it as?

2 A I really don't know. I'm not asking the
3 question.

4 I'd appreciate if you'd ask me a clear
5 question. I'm telling you what my problem is with --

6 Q Those were two separate conversations I
7 would say.

8 Bearing that in mind, do you think you
9 could answer the question?

10 A I certainly had more than five
11 conversations with Karen.

12 MR. BERRY: Karen McRae was and maybe
13 still is counsel for Vicki Aznaran.

14 MR. STOLLER: I know exactly who she is.
15 I don't know if she is attorney of record or
16 co-counsel in any capacity for the Aznarans.

17 I know it's her sister also. In that
18 regard, if you're going to state objections to that
19 finding I'll still make the record.

20 Q BY MR. STOLLER: You believe you had
21 approximately five conversations from May of '89
22 through June '91?

23 A I said at least. Based on your
24 definition of "conversation."

25 ///

1 (Pause in proceedings.)

2

3 Q BY MR. STOLLER: When you said you had at
4 least five conversations during this time period, did
5 they take place in one day or more than one day?

6 A That's a good question. More than one
7 day.

8 Q How many days do you think they took
9 place in?

10 A Probably between five and 10.

11 It's difficult to answer that, but I
12 would say probably between -- I'm trying to remember
13 how many times I went to Dallas to deal with
14 Scientology depositions and my clients. It had to
15 have been at least five days. So at least five. I'm
16 just not sure.

17 Q So over five days you believe you had
18 these conversations?

19 A I'm saying that I'm not sure.

20 But my best recollection is probably that
21 it was five days.

22 Q Do you recall what was said?

23 A Yes and no. That was three years ago.

24 I have general recollections. I can say
25 that.

1 Q To the best you can, can you state for us
2 the general recollections you have discussed with Ms.
3 McRae?

4 A No.
5 Attorney-client.
6 Attorney work product.
7 Relevancy.

8 MR. STOLLER: Same objection as before,
9 it will be sustained?

10 THE REFEREE: Yes.

11 Q BY MR. STOLLER: Did you ever have any
12 discussion with a C. Tony Wright concerning the
13 Aznaran case at any time prior to your substituting
14 out in June of 1991?

15 A C. Tony Wright is Karen McRae's law
16 partner.

17 And yes, I assert the same privileges
18 with respect to the content of such conversations with
19 C. Tony Wright.

20 Q When did you have these conversations
21 with C. Tony Wright?

22 A Over the course of time from May 1989
23 through June 1991.

24 Q How many discussions did you have with C.
25 Tony Wright during this time period?

1 A Less than five.

2 Q Less than five.

3 After you were no longer counsel for the
4 Aznarans in June of '91 did you ever discuss the
5 Aznaran case with Van Sickle?

6 A I'm not sure.

7 It seems to me that there may have been a
8 very brief conversation and/or message or two. But I
9 don't know. I'm just not sure.

10 Q When do you believe that took place?

11 A I think there was a message, not a direct
12 conversation, from Barry Van Sickle in January 1992.
13 And I believe the message was that Judge ^{Ideman} ~~Edelman~~ had
14 substituted John Elstead in.

15 No, it wouldn't have been January, it
16 would have been February, because it was after my
17 first deposition in this case. It would have been
18 sometime in the middle of February '92.

19 I believe my office got some message from
20 Van Sickle that Judge Edelman had substituted John
21 Elstead in as counsel of record in my case and stead
22 on behalf of Vicki and Richard Aznaran.

23 Q That he substituted Elstead in?

24 A In my place and stead.

25 Q Totally, not as associate of counsel or

16

1 anything else?

2 A As I said.

3 Q That was a message you received in your
4 office?

5 A I believe so. Yeah, I didn't receive it
6 at home or someplace else.

7 Q When was the other message or
8 conversation you believe you had with Mr. Van Sickle
9 after you substituted out of the case?

10 A I don't know that there was one.
11 I can't put my finger as I sit here now,
12 on anything in particular, so I just don't know.

13 Q Upon receipt of the message from Mr. Van
14 Sickle or his office -- whoever caused the message to
15 be delivered to you -- did you ever contact Mr. Van
16 Sickle and discuss what the context of the message
17 was?

18 A No.

19 Q Did you contact anyone at Mr. Van
20 Sickle's office regarding the context of the message
21 that you received?

22 A I believe I called him, his office back,
23 but I don't think that I talked with anybody
24 specifically about the content of the message. And
25 no, I didn't receive a call back.

17

7 1 Q When you called his office did you speak
2 with anybody or did you just leave a message for Mr.
3 Van Sickle?

4 A I think I left a message with a male
5 secretary type person as best I could tell.

6 Q You didn't speak to any other lawyer in
7 the firm?

8 A I did not.

9 Q Did Richard or Vicki Aznaran ever tell
10 you that they had discussed their case with Barry Van
11 Sickle before you substituted out as counsel of
12 record?

13 A Well, I have to assert the
14 attorney-client privilege to that one and refuse to
15 answer.

16 MR. STOLLER: To the extent that I'm
17 asking whether or not he ever had that conversation, I
18 think it's more foundational.

19 THE REFEREE: Again, what would it lead
20 to?

21 MR. STOLLER: To the existence of these
22 conversations as a starting point.

23 THE REFEREE: Thank you folks. The
24 rulings are the same.

25 MR. STOLLER: Even the foundational

17 1 questions are going to be sustained on this?

2 THE REFEREE: On that kind of
3 foundational question, yes.

4 Q BY MR. STOLLER: When was the first time
5 you discussed with the Aznarans that you did not have
6 the extent of trial experience that would most
7 effectively prosecute their cause of action against
8 the defendants?

9 A I don't know.

10 Q You don't know when you had that?

11 A I don't recall.

12 Q It was before being substituted out, is
13 that correct?

14 A Yes.

15 Q Do you recall if it was two weeks before?

16 A I don't recall.

17 Q Do you recall if it was a month?

18 A I don't recall.

19 Q Would there be anything that would help
20 refresh your recollection when you might have had that
21 conversation?

22 A I don't think so.

23 Q As a general practice when you can't
24 represent a client you'll indicate that they should
25 get somebody else because of whatever restrictions or

1 problems you would have in representing them?

2 A Objection.

3 MR. BERRY: Work product.

4 MR. STOLLER: It's a general comment as
5 far as his practice.

6 A And attorney/client.

7 Q BY MR. STOLLER: To the extent it may or
8 may not in the usual circumstance of your practice it
9 would stick out in one's mind?

10 MR. BERRY: Relevancy as well.

11 A Join.

12 THE REFEREE: I would think you could ask
13 a question, a general question as to whether or not he
14 has any custom or practice in this area.

15 MR. BERRY: This is not an attorney
16 malpractice case.

17 THE REFEREE: I know.

18 MR. BERRY: And his standard of practice
19 is not really relevant to anything.

20 THE REFEREE: But I think it's a
21 permissible question. I'm not sure it does you any
22 good.

23 Q BY MR. STOLLER: Do you have a general
24 practice or procedure that if you can't represent a
25 client because of various circumstances, such as

7 1 experience in the case or whatever, that you will
2 indicate that to the client and refer them to other
3 counsel?

4 A I object as vague, ambiguous, compound.

5 THE REFEREE: I think it's a crackerjack
6 question, but it's up to you.

7 MR. GREENE: Calls for a crackerjack
8 response I guess.

9 THE REFEREE: Better than an objection.

10 A Let me put it to you this way, there are
11 very, very few lawyers who are willing to litigate
12 against the Scientology organization.

13 Hold it counsel, you want your answer?

14 MR. STOLLER: I asked --

15 MR. GREENE: I'm going to give you a
16 specific answer. If you don't want it, withdraw your
17 question.

18 Q BY MR. STOLLER: This is a non-responsive
19 answer.

20 I asked you if you have a general
21 practice or procedure in your office about this
22 situation?

23 A Yes.

24 Q You're going to give me a diatribe?

25 A I'm telling you yes, of course I do.

17 1 Q What is your general practice and
2 procedure?

3 A It depends.

4 Q It depends on the nature of the case?

5 A It depends on the case, it depends on the
6 issue, it depends on the client.

7 Q Have you ever advised a client that you
8 could not go forward and represent them because you
9 didn't have the prior experience to represent their
10 interests, prior to the Aznarans?

11 A Irrelevant, attorney work product. I'm
12 not going to answer.

13 Q Have you ever had that conversation with
14 any clients prior to the Aznarans?

15 A That's irrelevant. I am not going to
16 answer.

17 MR. BERRY: I certainly raise the
18 relevancy objection.

19 MR. STOLLER: Now we're going to get an
20 instruction based upon relevance?

21 THE REFEREE: No, I'm trying to analyze
22 just what we have here.

23 MR. BERRY: Let me interpose something
24 else.

25 This organization has waged a campaign of

17 1 harassment against Mr. Greene personally, and this
2 information seems as though its intent is to gather
3 information for that campaign rather than this
4 litigation.

5 MR. GREENE: That is correct.

6 MR. STOLLER: That's a disingenuous
7 statement.

8 I'm asking a foundational question.
9 You're putting stuff on the record that is not before
10 us. I'm asking a foundational question that is
11 basically being combined with all the other objections
12 that have gone on from the previous portion of this
13 proceeding.

14 THE REFEREE: Let's just -- let's say
15 that the referee ruled that it was a question that
16 should be answered, and required an answer, and let's
17 say that answer was yes.

18 Where does that take you? Can you then
19 say who was this and when was this? I don't think so,
20 because wouldn't such conversations be in the nature
21 of attorney-client communications?

22 MR. STOLLER: I believe we could ask the
23 type of litigation it was without getting into the
24 specifics of it, to find out if it was of a similar
25 nature, of different nature, different type of case.

1 There are generalities that one can
2 explore into these areas.

3 MR. BERRY: How can any of this be
4 relevant to Mr. Yanny's alleged breach of fiduciary
5 duties?

6 THE REFEREE: I'm going to sustain the
7 objection because I really, while I can see --

8 MR. STOLLER: The other point is to see
9 whether or not it's an unusual circumstance, then he
10 would have a recollection as to when he might have had
11 this communication with his Aznarans.

12 To the extent that it's a normal part of
13 his practice I can understand why he would not have a
14 recollection. Generally.

15 To the extent that they take on a client
16 and do not have the ability to go the full distance on
17 it, it's an indication of something other than what
18 was originally represented.

19 I'm trying to acquire if it's a usual
20 occurrence in Mr. Greene's office or not.

21 THE REFEREE: Thank you.

22 I understand your point. I don't think
23 you can really travel that path. So I do sustain the
24 objection.

25 MR. STOLLER: Understood.

1 Q BY MR. STOLLER: Did the Aznarans ever
2 complain to you that you had dropped out of touch with
3 them or that you were difficult to locate or talk to?

4 A Asked and answered on February 5th.

5 As well, falls within the scope of
6 attorney-client and attorney work product privileges.

7 I refuse to answer.

8 Q It was asked and you didn't answer. So
9 I'm asking you now?

10 A Right, and my response now is the same as
11 it was then. It's attorney-client material.

12 THE REFEREE: Is this based on some
13 declaration?

14 MR. STOLLER: No, it's based on the fact
15 that it was asked in a previous deposition where there
16 was no referee.

17 Mr. Greene asserted the attorney-client
18 privilege and refused to respond.

19 THE REFEREE: The objection's sustained.

20 Q BY MR. STOLLER: Did the Aznarans ever
21 inform you that they had received information that you
22 had mishandled some of our other client's cases?

23 A Same objections, counsel.

24 THE REFEREE: Same ruling.

25 MR. BERRY: If they did your

18 1 investigators may have had something to do with it.

2 MR. GREENE: Right.

3 THE REFEREE: Let's don't wander off
4 here.

5 Q BY MR. STOLLER: Did the Aznarans ever
6 complain to you that you had entered into stipulations
7 in their case without their being informed prior to
8 you doing that?

9 A Same objections, counsel.

10 Q Attorney-client work product?

11 A Attorney-client privilege and attorney
12 work product privilege. Two separate objections.

13 I refuse to answer.

14 MR. STOLLER: Sustaining it?

15 THE REFEREE: Sustaining it.

16 I don't really see the work product. I
17 would sustain it on attorney-client.

18 Q BY MR. STOLLER: Prior to your
19 substitution out of the Aznaran's case in June of '91
20 did the Aznarans ever tell you that they had been in
21 communication with Yanny concerning his possible
22 representation of them?

23 A Same objection, attorney-client.

24 MR. BERRY: I make the predictable
25 objection Your Honor.

1 THE REFEREE: Sustained.

2 Q BY MR. STOLLER: What were the
3 circumstances in which you Federal Expressed the
4 Aznaran case to Los Angeles in June of '91?

5 MR. BERRY: Objection, assumes facts not
6 in evidence.

7 A It was a sunny day.

8 Q BY MR. STOLLER: That was the
9 circumstances?

10 A That was the circumstance, the sun was
11 out, the weather was clear.

12 Q Why did you Federal Express it to 'em?

13 A I object based on attorney-client
14 privilege and attorney work product privilege.

15 I will not answer that.

16 Q In your ex parte application for an order
17 allowing plaintiffs to respond to all pending motions
18 on or about August 26, 1991, and the papers that you
19 filed, there was a declaration?

20 A Do you have a copy for me counsel?

21 MR. STOLLER: I may. And I may not.

22 I do.

23 MR. GREENE: Thank you.

24 Q BY MR. STOLLER: Can you tell me --
25 This will not be a record but the

1 court -- for the Judge. (Indicating)

2 THE REFEREE: Thank you.

3 Q BY MR. STOLLER: Turning your attention
4 to paragraph 11, it says on July 31, 1991:

5 "I met with Mr. Elstead and with
6 plaintiffs. In concurrence we determined not to
7 substitute me out and Mr. Elstead in as attorney of
8 record, but to associate him as trial counsel on the
9 same day I obtained the case file from Mr. Elstead.
10 The file had been out of my possession ever since I
11 Federal Expressed it to Los Angeles on June 27."

12 Basically under what circumstance did you
13 Federal Express the file to Los Angeles on June 27.

14 MR. BERRY: I raise the objection of
15 attorney work product privilege.

16 Generally as to its course and mental
17 impressions, but it's also the Aznaran's file.

18 Attorney-client.

19 A That's the basis that I interposed before
20 for my refusal to answer.

21 Q BY MR. STOLLER: Were you directed to
22 forward the file to Los Angeles?

23 A It's none of your business.

24 I'm not going to answer that question
25 based on the attorney-client and work product

1 privilege.

2 Q Were you still attorney of record at the
3 time you Federal Expressed the file?

4 A No.

5 Q Who do you believe was the attorney of
6 record at the time you Federal Expressed the file?

7 A I don't know.

8 Q You had already executed the Substitution
9 of Attorney in that case, is that correct?

10 A The documents speak for themselves.

11 And it's asked and answered.

12 THE REFEREE: What's the date of the --

13 MR. GREENE: 6/27/91.

14 THE REFEREE: Delivery?

15 MR. GREENE: 6/27/91.

16 THE REFEREE: Alright.

17 Q BY MR. STOLLER: Again, your objection to
18 responding to the question as to under what
19 circumstance you forwarded the file to Los Angeles on
20 the 27th is because of attorney-client privilege?

21 A That is correct.

22 Q Who was the attorney?

23 A At that time in a defacto sense I was. I
24 had possession of the file.

25 MR. BERRY: The attorney-client privilege

19 1 responsibilities remain after cessation of the
2 relationship.

3 THE WITNESS: They certainly do with
4 respect to Mr. Yanny.

5 MR. STOLLER: I wish he would have
6 understood that a long time ago, we might have been
7 avoiding all of this.

8 Q BY MR. STOLLER: To whom did you send the
9 file to by Federal Express?

10 A I'm going to assert the privilege.

11 Q So the identification of who you sent the
12 file to is attorney-client privilege?

13 A Yes.

14 Q Did you send it to the Aznarans?

15 A I just gave you my response, counsel.

16 Q You gave it to me to the other questions.

17 A Same to that one.

18 Q Did you give it to Mr. Elstead?

19 A Same response.

20 THE REFEREE: Let's see if I'm following
21 this.

22 You had substituted out?

23 MR. GREENE: I had substituted out.

24 THE REFEREE: Nobody had substituted in?

25 MR. GREENE: I don't know, because after

19 1 I substituted out I wasn't on the service list, so I
2 don't know.

3 MR. STOLLER: On Exhibit 1 and 2, which
4 is the Substitution of Attorney, according to Mr.
5 Greene's testimony today they were signed and executed
6 by him on June 7, '91.

7 There appears to be the date of Vicki and
8 Richard Aznaran on Exhibit, the respective exhibit
9 dated 6/11/91.

10 To the extent, if in fact those are their
11 signatures -- which I have no reason to know one way
12 or the other -- but I believe these are documents that
13 have been utilized in the proceedings and these were
14 eventually filed with the court.

15 If Mr. Greene substituted out and
16 consented to the designation on 6/7/91, on the 27th of
17 that same month when he Federal Expressed the case
18 down to Los Angeles, I believe I have the right to
19 inquire into the general foundational questions, as I
20 posed, to the extent that these are being objected to,
21 I think it's part and parcel of what we've seen here.

22 THE REFEREE: I'm not sure I know what
23 you mean and I'm not sure I want to know what you mean
24 by that, because it would probably take a long time to
25 say.

19 1 But, you had substituted out and the
2 Aznarans had substituted in as of these dates as in
3 pro per.

4 And on the 27th you still had the file,
5 is that correct?

6 MR. GREENE: Yes.

7 Q BY MR. STOLLER: On the 27th you did
8 something with the file?

9 A I did.

10 Q You sent it Federal Express somewhere?

11 A That is correct.

12 THE REFEREE: And it's your contention
13 that it's attorney-client privilege to say where you
14 sent it and at whose direction you sent it?

15 THE WITNESS: Yes, with respect,
16 particularly to the latter.

17 THE REFEREE: I don't really follow the
18 reasoning on the delivery of it.

19 You had it. You sent it somewhere.
20 Where did you send it?

21 I think you should answer.

22 MR. GREENE: I sent it to Barry Van
23 Sickles.

24 THE REFEREE: Alright.

25 Q BY MR. STOLLER: At whose request did you

1 send it to Barry Van Sickle?

2 A Asked and answered.

3 MR. STOLLER: It wasn't answered.

4 THE REFEREE: You're claiming that the
5 direction to send it to him was --

6 MR. GREENE: Attorney-client.

7 THE REFEREE: Who is the attorney, who is
8 the client?

9 MR. GREENE: The clients are the
10 Aznarans.

11 THE REFEREE: Are you the attorney?

12 THE WITNESS: Yes, since I was in
13 possession of the file and since I had been the
14 Aznaran's attorney for two years, I still had
15 obligation and responsibilities to them to --

16 THE REFEREE: To them.

17 Did they instruct you to send the file?

18 THE WITNESS: I can't answer that.

19 That's attorney-client material.

20 Q BY MR. STOLLER: I think to the extent
21 you substituted out and relinquished your
22 responsibilities as to matters going on, you would not
23 have been held responsible from the date of
24 substitution of your execution?

25 A That's your opinion.

1 By whom?

2 THE REFEREE: That's a marginal area and
3 I won't require that answer.

4 Folks, I have to ask you to stop now
5 because I have to go somewhere else during the lunch
6 hour. We can resume at 1:30.

7
8 (At the hour of 12:00 p.m. the,
9 luncheon recess was taken, the
10 proceedings to be resumed at 1:30 p.m.)

11
12 (At the hour of 1:55 p.m.
13 the following proceedings were had
14 at the same place with the
15 same persons present:)

16
17 THE REFEREE: Back on the record.

18 ///

19

20

21

22

23

24

25

1 (The record was read as follows:

2 Q BY MR. STOLLER: I think to
3 the extent you substituted out and
4 relinquished your responsibilities as to
5 matters going on, you would not have been
6 held responsible from the date of
7 substitution of your execution?)
8

9 Q BY MR. STOLLER: You may jump all over me
10 because it might have been asked and answered. It
11 might have been asked and answered by myself.

12 After you were reinstated as counsel for
13 the Aznarans did you have any discussions with Mr.
14 Yanny regarding the Aznaran's case?

15 A Yes.

16 Q When did you have such conversations?

17 A Shortly thereafter. Sometime between
18 7/26/91 and 7/31/91.

19 Q Based upon your response, did you not
20 have any further conversations with Mr. Yanny
21 regarding the Aznaran's case after 7/31/91?

22 A That is correct.

23 Q How many conversations did you have with
24 Mr. Yanny from the time period of 7/26/91 through
25 7/31/91 regarding the Aznaran's case?

20 1 A One or two.

2 Q Were they face-to-face or some other
3 medium of communication?

4 A Telephonic medium.

5 Q Do you recall when the first telephonic
6 conversation took place between you and Mr. Yanny?

7 A Aside from that five day window, no.

8 Q Do you recall whether Mr. Yanny
9 telephoned you during the first conversation, or did
10 you originate the phone call?

11 A I don't remember.

12 Q To the best that you can, could you
13 please re-state for me what you discussed with Mr.
14 Yanny during your first telephone conversation between
15 the period of 7/26/91 and 7/31/91?

16 A No. I assert the attorney-client
17 privilege and the attorney work product privilege and
18 refuse to answer.

19 MR. BERRY: I have the usual objections.

20 Q BY MR. STOLLER: Let me explore this
21 before the Judge rules.

22 You're asserting the attorney-client
23 privilege.

24 Who is your client in the situation
25 regarding the communications you may have had with Mr.

1 Yanny?

2 A Aznarans, Vicki and Richard.

3 Q So to the extent that you have a
4 discussion with Mr. Yanny, who's not a party on or
5 client of yours, and he is no longer in on that case,
6 you're asserting the attorney-client privilege on
7 behalf of the Aznarans as to any communications that
8 might have taken place during that time?

9 A That's correct.

10 MR. BERRY: I'm asserting on behalf of
11 Mr. Yanny and noting that the Aznarans aren't
12 represented here.

13 Mr. Yanny's obligation to his former
14 clients continues.

15 A The basis of the assertion of the
16 privilege is predicated upon the transition of
17 authority to act on behalf of the Aznarans from Joseph
18 Yanny to myself. So the privilege is in sort of the
19 changing of the guard as it were.

20 Q BY MR. STOLLER: During that period of
21 time in which you had the initial telephonic
22 conversation with Mr. Yanny -- specifically the period
23 of 7/26/91 through 7/31/91 -- was it your
24 understanding that Mr. Yanny was then the attorney of
25 record for the Aznarans?

1 A My understanding was that from the
2 beginning of July through July 25th, 1991, Joseph
3 Yanny was the attorney of record for Vicki and Richard
4 Aznaran.

5 So for the one or two conversations which
6 transpired between Mr. Yanny and me from July 25
7 through August 1991 -- no, Mr. Yanny was not the
8 Aznaran's attorney of record pursuant to Judge
9 ~~Edelman~~ ^{Idelman}'s order. I was.

10 The one or two conversations were
11 required in order for a change of authority to act on
12 behalf of them would be effectuated.

13 Q You've raised an objection based upon Mr.
14 Yanny's privilege?

15 A The privilege lies with the Aznarans,
16 they're the client.

17 Q But Mr. Berry also indicated that Mr.
18 Yanny has a privilege here?

19 A (No response)

20 MR. STOLLER: Is it your position Mr.
21 Yanny has a privilege? (Indicating counsel)

22 MR. BERRY: After?

23 A Work product.

24 Q BY MR. STOLLER: Are you going to speak
25 for Mr. Berry?

1 MR. GREENE: Sure.

2 MR. BERRY: After Mr. Yanny was that he
3 retains his work client and attorney product unless
4 the Anarans tell us otherwise.

5 MR. STOLLER: We have a problem here.
6 Basically this litigation between the Scientology
7 plaintiffs against Mr. Yanny is based upon the alleged
8 breaches of Mr. Yanny's fiduciary obligations, his
9 confidentiality, his duty of loyalty.

10 To the extent that he was --

11 MR. BERRY: I believe we're stipulating
12 the confidentiality out of this case.

13 MR. STOLLER: I have elaborated more than
14 what was stipulated. The overall concept is the same.

15 To the extent that there is disclosures
16 to parties that have adverse interests in the Church
17 based upon information that Mr. Yanny had obtained as
18 a result of his prior representation, I believe we
19 have a problem to the extent that he is trying to hide
20 behind the attorney-client privilege.

21 There is various sections to that
22 privilege such as a crime of fraud, et cetera. I
23 think it's appropriate to find out from Mr. Greene
24 what was discussed during these telephone
25 conversations.

1 THE REFEREE: I can understand the logic
2 of your inquiry, I just find it a very difficult area
3 to satisfy your logical line of inquiry because you
4 run into the attorney-client wall.

5 I do not believe that the situation is
6 one that would justify the breaking down of the wall.
7 Maybe Judge Cardenas will see it differently.

8 MR. BERRY: I can understand counsel's
9 frustration. I encounter it frequently in attorney
10 malpractice cases. I can't find out what was said or
11 done if the privilege exists.

12 MR. STOLLER: I'm making my record.
13 We'll go on to the next question.

14 So it's sustained as to the objection?

15 THE REFEREE: Yes, it is.

16 Q BY MR. STOLLER: To the same extent that
17 the next telephone conversation that took place
18 between yourself and Mr. Yanny, the substance of that
19 conversation will also be objected to on the same
20 grounds?

21 A If there was one, that is correct. I
22 said one or two. I'm not sure counsel.

23 Q Do you recall whether or not in fact
24 there might have been another conversation?

25 Is there anything that could refresh your

1 1 recollection as to where you were or who might have
2 2 originated the phone call?

3 A I recall the substance, and without in
4 4 any way disclosing the contents or substance, it may
5 5 have been one or two phone calls that addressed it. I
6 6 just don't know if it was one or two. I don't think
7 7 it was any more than that. So I can't do any better
8 8 for you.

9 Q Are you aware of whether or not Mr.
10 10 Armstrong, while employed in your office, had any
11 11 discussions with Mr. Yanny regarding the Aznaran's
12 12 case once you were reinstated as the attorney of
13 13 record?

14 A No, he has not to the best of my
15 15 knowledge.

16 And I might add also -- no, I want to be
17 17 careful. Never mind, I'll withdraw that.

18 Q Aside from conversations that you may or
19 19 may not have had -- strike.

20 Aside from the conversations that you
21 21 testified that you had during the period of 7/26/91
22 22 through 7/31/91, was there any other communication,
23 23 either through letter or memos or faxes, that you
24 24 might have had with Mr. Yanny during that period of
25 25 time?

1 A No.

2 Q How about subsequent to that period of
3 time?

4 A In general?

5 Q Communications with Mr. Yanny regarding
6 the Aznaran's case other than through conversation?

7 A No.

8 Q Did you receive from -- strike that.

9 Did you receive at any time from Mr.
10 Yanny case files regarding the Aznarans?

11 A Objection, that's been asked and answered
12 on 2/5/91.

13 The answer is yes.

14 Q When did you receive such case files?

15 A Same objection. Replowing old ground.
16 Without waiving the objection, early
17 August.

18 Let me just short circuit it, counsel,
19 and do it all over again. I received Mr. Yanny's
20 filings and the Scientology originated oppositions
21 which had transpired during my hiatus from the case
22 from John Koresko -- K-o-r-e-s-k-o -- early at my
23 office at 711 Sir Francis Drake Boulevard in San
24 Anselmo.

25 MR. BERRY: I think I have the

1 photographs of that here.

2 Q BY MR. STOLLER: Did Mr. Koresko call you
3 before showing up to your office in early August?

4 A Did he call my office? Yes.

5 Q Did he speak with you?

6 A No.

7 Q Do you know who he spoke with?

8 A The answering machine.

9 Q There was a message left on your
10 office --

11 A Answering machine.

12 Q -- on your office answering machine?

13 A That's correct.

14 Q To the best of your recollection, please
15 tell me what the message was on your answering
16 machine?

17 A Same objection. I won't answer.

18 Q Mr. Koresko is an individual who works
19 for Mr. Yanny, is that correct?

20 A I have no factual basis to be able to
21 answer that question.

22 My understanding is yes.

23 Q And the privilege again is based upon
24 work product?

25 A And attorney-client.

1 Q As to the extent that Mr. Koresko
2 communicated something to your office answering
3 machine, you're asserting the attorney-client
4 privilege?

5 A I'm asserting that as falling within the
6 scope of the attorney-client, attorney work product
7 privileges.

8 MR. STOLLER: Do you have any difference
9 on your feeling on that?

10 THE REFEREE: I don't think so.

11 What are you probing toward? Something
12 that would say who?

13 I gather the file came from Mr. Yanny to
14 Mr. Greene.

15 MR. STOLLER: The problem is unless we
16 can ask either foundational questions or peripheral
17 discussions that he might have had with non-parties to
18 the litigation, and find out what was said, when it
19 was said, we're obviously handicapped as far as the
20 extensiveness of the inquiry.

21 I believe these types of foundational
22 questions, No.1, demonstrate that there is more than
23 just suspicion or speculation about the contacts. And
24 more importantly, number two, to the extent that
25 something might have been discussed during these

1 discussions which I believe falls outside the gambit
2 of protected area, they're properly inquired into.

3 MR. BERRY: I object on relevancy
4 grounds.

5 The horse is already out of the stable.
6 Mr. Yanny was already in the Aznaran case. Anything
7 after that I submit is irrelevant.

8
9 (Discussion held off the record.)

10
11 MR. STOLLER: The relevancy is such that
12 obviously Mr. Yanny's involvement as I previously
13 stated as to what might be have been disclosed, how it
14 was disclosed as far as the breach of his duties of
15 loyalty is what's at stake here.

16 As far as Mr. Koresko working with Mr.
17 Yanny it's entirely relevant to this inquiry.

18 THE REFEREE: I understand your position
19 and, since I can, since I don't see any way around the
20 claim of privilege, coupled with the fact that I find
21 it difficult to believe that the message could really
22 be beneficial to you, you already have the fact that
23 Mr. Yanny was involved, you already have the fact of
24 the transfer of the material to, from him to the
25 witness.

2
1 MR. STOLLER: I understand the position
2 that you're taking. The only problem is we're
3 assuming what might or might not have been left on the
4 message.

5 To the extent "I've got great information
6 for you," or "that stuff you were looking for, Joe
7 finally gave it to me." Until I get the answer we're
8 conducting litigation by hyperbole here.

9 THE REFEREE: I see the point. The
10 rulings stand.

11 Q BY MR. STOLLER: I take it that you
12 obtained the knowledge that Mr. Koresko would be
13 showing up as a result of the message that was left on
14 your machine?

15 A Counsel, that's a question that would
16 require me to disclose the content of the message, and
17 I've asserted the objections with respect to that to
18 your previous question, and would reassert it now.

19 Q How did you know Mr. Koresko was going to
20 show up in your office on that date?

21 A Same objections.

22 Q Were you expecting Mr. Koresko when he
23 showed up that day?

24 MR. BERRY: That tends to indicate a
25 communication had taken place.

1 A It's also kind of vague.

2 I'm not sure when your question indicates
3 me having an awareness Koresko was going to show up.
4 So perhaps you could clean that up.

5 Q BY MR. STOLLER: Isn't it true Mr.
6 Koresko showed up at your office over the weekend, on
7 Saturday and Sunday during August 1991?

8 A That is correct. That is correct.

9 Q Did you expect him to show up on that
10 Saturday?

11 Were you expecting him?

12 A It's the same problem.

13 Prior to that Saturday -- maybe. I'm not
14 sure, but I don't think so.

15 Q You weren't sure that he was going to
16 show up?

17 A I'm trying to answer your question. I'm
18 trying to put myself back.

19 And I'm just not sure. Maybe a day or
20 two before I had some idea he was going to come.
21 Maybe I didn't. But I know for sure that on that
22 Saturday I met with him.

23 Q Were you expecting him on the following
24 Sunday, the next day?

25 A The next day.

1 Q The next day?

2 A I believe so.

3 Q When Mr. Koresko came to your office on
4 that Saturday in early August of 1991 did you have a
5 conversation with him?

6 A Yes.

7 Q Would you please tell me what you said to
8 him and what he said to you during that conversation
9 you had with him on that Saturday in August of 1991?

10 A Aside from introducing ourselves because
11 we had never met before, any conversations I had with
12 Mr. Koresko are subject to the attorney-client and
13 attorney work product privileges and I refuse to
14 answer that question.

15 MR. BERRY: I join on behalf of Mr.
16 Yanny.

17 MR. STOLLER: And you're sustaining it?

18 THE REFEREE: Yes.

19 I say this only because I'm looking at my
20 watch. And would I hope that we would at least finish
21 Ms. Phippeny and Mr. Greene. I hope that's your goal
22 too.

23 MR. STOLLER: That is my goal.

24 I'll ask questions, he'll object to them
25 and I'll turn to you and say sustained, and we'll just

1 move on.

2 Q BY MR. STOLLER: The following Sunday --
3 strike that.

4 Did Mr. Koresko show up at your office
5 with anybody else on that Saturday in early August of
6 1991?

7 A No, he was alone.

8 Q The following Sunday, the next day when
9 he showed up, did you have a conversation with Mr.
10 Koresko?

11 A Yes.

12 Q Will you please state for us what you
13 discussed with him and what he said to you?

14 A Same objection.

15 THE REFEREE: Same ruling.

16 Q BY MR. STOLLER: Did he arrive on that
17 Sunday alone, or was he in the company of somebody
18 else?

19 A He was alone.

20 Q During that time period when Mr. Koresko
21 was in your office did you discuss with him any other
22 cases other than the Aznarans?

23 A That's vague and ambiguous. And I'll
24 tell you why. I don't know when you're saying any
25 other cases aside from the Aznarans, I don't know

1 whether you're making inquiry with respect to cases
2 that I have been or was involved in or whether you're
3 making --

4 I'm not sure how you're using the term
5 "cases." So I have to say that I think your question
6 is vague and ambiguous. And ask you to rephrase it.

7 MR. STOLLER: I'll be happy to.

8 Q BY MR. STOLLER: When Mr. Koresko was in
9 your office during that weekend in early August of
10 1991, did you have any conversations with him
11 regarding any cases in which you were responsible as
12 the attorney for those cases?

13 A I did not.

14 Q Other than the Aznaran case?

15 A I did not.

16 Scientology cases, right?

17 Q I'm sorry?

18 A Scientology cases or cases in general?

19 Q Any cases that you were the responsible
20 attorney for?

21 A I forgot your question. I'm getting a
22 little tired.

23 That is correct, I did not.

24 MR. STOLLER: As you're aware, as I'm
25 sure you admonish your clients, if at any time you

1 need to take a break or wash your face please feel
2 free to do so.

3
4 (Discussion held off the record.)
5

6 Q BY MR. STOLLER: Do you recall how long
7 Mr. Koresko stayed in your office on that Saturday in
8 August of 1991?

9 A I don't.

10 Q Was it more than an hour?

11 A It may have been.

12 Q Could it have been two hours?

13 A I'm trying to remember.

14 See, at this time Scientology had loaded
15 the record up with about 285 pages worth of motions.
16 And I believe that the time with respect to opposing
17 at least one or two of them had expired. The time for
18 opposition to the remaining ones were coming up
19 extremely quickly. And there was a heck of a lot of
20 pressure.

21 And my recollection I think is that I
22 spent maybe an hour with John Koresko on that
23 Saturday. And then he left. But your investigator
24 logs ought to show all that because we were under
25 surveillance at that time, so I'm sure that

1 information is already available to you.

2 Q Wouldn't your time sheets?

3 A Time sheets?

4 Q Wouldn't you bill clients for any time
5 you're in the office?

6 A Generally I try to, but I'm human and
7 subject to error.

8 Q To the extent you recall Mr. Koresko
9 during that Saturday you spent approximately an hour
10 with him, did he stay in the office after you had
11 finished your meeting with him?

12 A That's what I'm trying to remember.
13 I'm not sure. I can't remember whether he left and I
14 stayed or whether I stayed and he left.

15 I have a recollection that there was
16 something like that. But -- your investigator's logs
17 would be better than my recollection.

18 Q Was anyone else present in your office
19 that Saturday when you met with Mr. Koresko?

20 A No.

21 Q Did you have any other staff there?

22 A No.

23 Q Was Mr. Armstrong there?

24 A No.

25 Q The next day, the following day when Mr.

1 Koresko came back to your office, how long of a
2 meeting did you have with him?

3 A I believe it was shorter. I think it was
4 less than an hour. But I may be wrong.

5 I'm not sure.

6 Q After you concluded your meeting with Mr.
7 Koresko did Mr. Koresko stay in your office?

8 A Which meeting, Saturday or Sunday?

9 Q Sunday?

10 A No -- I don't know. Maybe. He may have.

11 I seem to have some recollection of him
12 being there and maybe me going somewhere, or vice
13 versa, on one of those two days. I'm just not sure.

14 Q On either day, either Saturday or Sunday,
15 did you discuss with Mr. Koresko any of the
16 substantive issues in the Aznaran case?

17 A That falls squarely within attorney work
18 product. So I refuse to answer that question.

19 THE REFEREE: Same ruling.

20 Q BY MR. STOLLER: During that same
21 weekend, Saturday and Sunday in early August of 1991,
22 did you discuss any of the factual issues with Mr.
23 Koresko --

24 A Same response.

25 Q -- the factual issues regarding the

3 1 Aznaran case?

2 A Right. Concerning which I assert work
3 product privilege.

4 THE REFEREE: Same.

5 Q BY MR. STOLLER: During that same weekend
6 in early August of 1991 did you discuss with Mr.
7 Koresko any of the papers that had been filed by Mr.
8 Yanny's office in the Aznaran case?

9 MR. BERRY: Predictable objection.

10 A I will assert the work product privilege.
11 And without waiving it I can say that he
12 delivered to me, as I indicated, papers that had been
13 filed during my hiatus.

14 MR. STOLLER: I believe it's
15 non-responsive.

16 Q BY MR. STOLLER: I asked you if you
17 discussed any papers that had been filed in the
18 Aznaran case by Mr. Yanny's office?

19 A I assert the work product and refuse to
20 answer.

21 THE REFEREE: Same ruling.

22 If you don't ask me I won't make a
23 ruling. If you ask me I will.

24 MR. STOLLER: Just so the record reflects
25 that.

1 THE REFEREE: Okay.

2 Q BY MR. STOLLER: Did you discuss with Mr.
3 Koresko during that weekend in early August of 1991
4 whether or not Mr. Yanny intended to provide
5 assistance either to your office or to the Aznarans in
6 their litigation?

7 MR. BERRY: Predictable objection.

8 MR. STOLLER: Such an elegant way to
9 coach. I love it.

10 A Prospective.

11 MR. BERRY: I'm asserting on behalf of
12 Mr. Yanny. Mr. Koresko is employed by Mr. Yanny.

13 A The question is vague. It's not clear
14 whether you're referring retrospectively or
15 prospectively.

16 Q BY MR. STOLLER: I believe I said
17 continued his assistance or to further the
18 representation.

19 It was prospective?

20 A I assert the work product privilege and
21 refuse to answer.

22 Q Did you discuss with Mr. Koresko during
23 that meeting in early August of 1991 the return of the
24 Aznaran file to your possession?

25 A Vague and ambiguous, because there were

1 two days --

2 Without waiving that I'll also interpose
3 the work product privilege and refuse to answer on
4 that basis.

5 Q On either Saturday or Sunday of that
6 weekend in which you met Mr. Koresko at your office
7 did he ever state to you that Mr. Yanny had retrieved
8 the Aznaran files from Mr. Van Sickle?

9 A I refuse to answer based on
10 attorney-client, attorney work product privileges.

11 MR. BERRY: Naturally I object.

12 MR. GREENE: Naturally.

13 MR. STOLLER: Naturally.

14 MR. BERRY: That isn't to mean I'm
15 naturally objectionable.

16 Q BY MR. STOLLER: Prior to your signing of
17 the Substitution of Attorney on June 7, 1991 -- which
18 is what Exhibits 1 and 2, or 8 and 9 depending on
19 which one you would like to look at -- did the
20 Aznarans ever discuss with you any conversations they
21 had with Barry Van Sickle about settlement
22 negotiations in their case?

23 A I refuse to answer based on the
24 attorney-client privilege.

25 Q Were there settlement discussions going

1 on in the Aznaran case prior to you signing the
2 Substitution of Attorney on June 7, 1991?

3 A I don't know.

4 Q Did the Aznarans ever mention to you that
5 they had spoken with Mr. Van Sickle regarding
6 settlement discussions in their case?

7 A On the basis of the attorney-client
8 privilege I refuse to answer.

9 Q Did Vicki Aznaran ever tell you that the
10 reason she no longer required your services as an
11 attorney is because she wanted to negotiate the
12 settlement herself and because the defendants in her
13 case refused to associate?

14 A The form of the question is compound.
15 Second, I refuse to answer based upon
16 attorney-client privilege.

17 Q Shall I save myself the trouble of
18 illuminating the compound part of the question?

19 A I think that would be an expeditious use
20 of time.

21 MR. STOLLER: This area by the way is of
22 some significance as well because there has been
23 allegations to the extent that some type of trickery
24 or chicanery took place in which Mr. Greene was
25 eliminated from the representation of his clients.

1 MR. BERRY: Fraud and deceit I think is
2 the name of the affirmative defense.

3 MR. STOLLER: So to the extent that I
4 think this is a central issue as well, do you have any
5 difference of a viewpoint as to whether or not this is
6 a permissible inquiry?

7 THE REFEREE: I can see once again that
8 it's desirable from your standpoint, but I don't see
9 that it changes the relationship of attorneys and/or
10 clients.

11 Q BY MR. STOLLER: From the time Mr.
12 Armstrong started work with you have you received any
13 assistance from him other than the mechanical
14 preparation of what you previously mentioned in
15 preparing the Aznaran case?

16 THE REFEREE: I find that question a
17 little bit, for lack of a better expression, awkward.

18 I think the testimony was that he got
19 mechanical help, that Mr. Armstrong signed two
20 declarations.

21 MR. STOLLER: I think assisted in the
22 preparation of two declarations.

23 THE REFEREE: I'm not exactly sure what
24 the testimony was. But the two declarations and the
25 mechanical.

1 Was your question directed just to the
2 mechanical?

3 MR. STOLLER: No.

4 Q BY MR. STOLLER: Aside from what was
5 testified to by Mr. Greene, did Mr. Armstrong provide
6 any other assistance in the preparation of the Aznaran
7 case since he started work for you?

8 A In addition to those items which
9 previously I have in my testimony enumerated, no.

10 MR. STOLLER: By the way, do you know
11 your pen is leaking?

12 MR. GREENE: Is it getting all over my
13 face?

14

15 (Discussion held off the record.)

16

17 THE REFEREE: I'd also like the record to
18 show I don't think that's a JAMS pen.

19 MR. GREENE: I stole it from Lewis
20 D'Amato.

21 MR. STOLLER: They do products liability.

22 Q BY MR. STOLLER: I believe this was
23 Exhibit 4 to the first portion of your deposition,
24 it's the declaration that you prepared regarding
25 alleged quote "taint" closed quote, "of Joseph A.

1 Yanny, Esq."

2 Is that correct, Exhibit 4?

3 A That's what my copy of the first session
4 of my deposition transcript shows, yes.

5 Q Aside from the assistance that you had
6 from Mr. Armstrong in preparing this declaration, have
7 you received any further assistance from Mr. Armstrong
8 in preparing matters for the Aznaran case?

9 A Wait a minute. I object to that. You
10 assume that --

11 If I heard you right your question
12 assumed that Armstrong assisted me in the preparation
13 of this declaration. That's not my testimony. It
14 never has been.

15 I prepare my own declarations.

16 MR. STOLLER: Let me clarify one thing
17 here.

18 I think it was somewhat awkward. Let me
19 rephrase the question.

20 Q BY MR. STOLLER: In your declaration,
21 paragraph 7, you say, "I'm grateful for the ongoing
22 assistance that I received from Jerry Armstrong while
23 I work at times around the clock, he has assured the
24 products of my labors and insured that they were
25 prepared for filing and service."

1 Other than this period of time that
2 you've stated in your declaration have you received
3 any further assistance from Mr. Armstrong in matters
4 that, in helping you with your case with the Aznarans?

5 And other than what you've testified to
6 earlier to the extent it was mechanical assistance and
7 other types of things, is there any additional things
8 that he did from this period of time forward? I'm
9 trying to use the declaration as a basis of a time
10 frame, of September 4, 1991.

11 A I have a little trouble with your
12 question. I think I understand it.

13 You're asking me from September 4 on --
14 and excluding document preparation, putting postage on
15 nevertheless, addressing labels, that kind of thing --
16 that did I receive any other assistance from Gerald
17 Armstrong with respect to the Aznaran case?

18 Q That is correct.

19 A I don't know whether or not after
20 September 4 was when he executed any declarations with
21 respect to the Aznaran case.

22 If so, then my answer would be yes I did,
23 and that's what he did.

24 If there weren't any declarations then
25 the answer would be no, the best way I can answer it.

1 Q I believe you stated earlier today that
2 you had no knowledge as to whether or not Mr.
3 Armstrong was an employee of Mr. Yanny, or a paralegal
4 of Mr. Yanny?

5 A So.

6 Q Is that correct?

7 A You're asking me to comment on my prior
8 testimony. That's improper.

9 It's also been asked and answered.

10 THE REFEREE: I think that is the
11 substance of what we said, so let's go forward.

12 Q BY MR. STOLLER: Do you have any
13 knowledge of whether or not Mr. Armstrong worked for
14 Mr. Yanny in any capacity?

15 THE REFEREE: Ever?

16 MR. STOLLER: Sure.

17 A No.

18 Actually no, yes, I do have knowledge.
19 And the knowledge that I have is that he has not.

20 Q BY MR. STOLLER: That he's never been
21 employed by Mr. Yanny?

22 A That's the state of my understanding and
23 my knowledge, yes.

24 MR. STOLLER: Thank you for the
25 clarification.

1 Q BY MR. STOLLER: What cases do you
2 represent Mr. Armstrong in?

3 A Church of Scientology International
4 versus Gerald Armstrong, Marin County Superior Court,
5 No. 15229².

6 Q Are there any other cases that you
7 represent Mr. Armstrong in?

8 A Well, as a party, no.

9 As a witness in this case, yes.

10 Q Any others?

11 A Cases, no.

12 Well, I'm sorry. Maybe I should take a
13 break. It's getting a little fuzzy.

14 Are you asking, has your question got an
15 exact time frame or the prior time frame?

16 Q There is no parameters on the time frame.

17 A Ever?

18 Q Right.

19 A I have also provided representation --
20 actually I don't know if it's --

21 I've assisted Mr. Armstrong in the, in
22 the L.A. Superior Court case, whatever the case number
23 for Armstrong I is.

24 Q The first Armstrong case?

25 A Yeah, the Breckenridge decision case and

6
1 the case that was the subject of his
2 cross-complaint -- which was settled by the mutual
3 release of all claims -- and the Settlement Agreement
4 assisted in research, drafting of opposition to the
5 Scientology organization's initial effort to enforce
6 the Settlement Agreement. I believe at that time.

7 Q The initial efforts to enforce the
8 Settlement Agreement?

9 A Right.

10 I believe that the motion to enforce was
11 filed on 10/3/91. And ultimately it was the subject
12 of a hearing before Judge Geernaert 12/23/91.

13 Toby Plevin was the attorney of record.

14 Q So I understand your testimony correctly,
15 you also helped and assisted in preparation of papers
16 in the original Armstrong case before Judge
17 Breckenridge?

18 A No.

19 THE REFEREE: Not at the time, it was
20 before Judge Breckenridge.

21 MR. GREENE: Judge Breckenridge was the
22 trial judge. I wasn't involved in that.

23 That was before my time. I was just a
24 little baby lawyer then.

25 MR. STOLLER: You were a little --

1 THE WITNESS: Now after having challenges
2 I am a little bigger.

3 MR. STOLLER: Do you want to take a
4 break?

5 THE WITNESS: Yes.

6 MR. STOLLER: I expect to be another half
7 hour, 45 minutes with Mr. Greene.

8 Then I expect to be approximately about
9 an hour with Ms. Phippeny.

10 THE REFEREE: If those estimates are
11 accurate then it will probably work out.

12 If it turns out to be two or three hours
13 with her we're going to have a problem.

14 MR. BERRY: I had some questions. I'll
15 perhaps go last.

16 I don't believe you take a position I'm
17 precluded from dealing with Mr. Greene directly, do
18 you?

19 MR. STOLLER: I'm sorry?

20 MR. BERRY: I don't believe you take a
21 position that I'm not able to deal with Mr. Greene
22 outside of this deposition room?

23 MR. STOLLER: I don't see why.

24 MR. BERRY: I am with Mr. Armstrong.

25 ///

1 (Recess taken.)

2
3 THE REFEREE: Ready to go back on the
4 record?

5 MR. STOLLER: Certainly.

6 Q BY MR. STOLLER: Do you pay Mr. Armstrong
7 a salary for the work he performs in your office?

8 A I refuse to answer that question based on
9 the attorney work product privilege and privacy.

10 Q Whose privacy, yours or Mr. Armstrong?

11 A Both. Mine.

12 Q And you're also characterizing it as
13 attorney-client privilege?

14 A Work product.

15 Frankly, it's none of your business what
16 I pay Mr. Armstrong.

17 THE REFEREE: He didn't ask what.

18 A Or whether.

19 Q BY MR. STOLLER: Or how much?

20 A Do I pay Mr. Armstrong for his services,
21 yes, I do.

22 Q Does Mr. Armstrong pay you for the
23 services you provide him in his representation?

24 A Yes.

25 Q Is it in functionable, is it exchange or

1 barter for services or actual payment for services?

2 MR. BERRY: Objection, irrelevancy for
3 this litigation.

4 A I'll adopt that objection.

5 I just refuse to answer that question.
6 It doesn't have any bearing on this litigation what
7 kind of arrangements I have with Gerald Armstrong as
8 my employee.

9 MR. STOLLER: It's not only as it relates
10 to your employee, it also relates to your being his
11 attorney of record and the manner and means in which
12 the --

13 A Right, and that certainly goes within
14 work product and attorney-client privilege.

15 MR. BERRY: It has nothing to do with
16 this case. With another case maybe.

17 THE REFEREE: Well, I think you're
18 entitled to discover the fact of whether there is a
19 pay relationship between the parties.

20 And I believe you've established that
21 there is such a relationship; the manner of the
22 payment or the amount of the payment.

23 Q BY MR. STOLLER: I never asked the
24 amount. I just want to know rather than services if
25 there is actually a payment of services. That's all.

1 THE REFEREE: I'll sustain the objection
2 on that. I think that it's not a donation or not
3 free.

4 MR. STOLLER: Again we don't know unless
5 we ask the question.

6 THE REFEREE: I think the state of the
7 record is that it is not for nothing.

8 In other words, it's a payment. Whether
9 it's an exchange of services is, that's still a
10 payment of sorts.

11 MR. BERRY: Who would ever do Scientology
12 litigation for free?

13 MR. STOLLER: It would be a surprise.

14 MR. GREENE: There is a bridge in San
15 Francisco a lot of people jump off of.

16 Q BY MR. STOLLER: When I asked you before
17 as to the, any of the cases that you represented Mr.
18 Armstrong, do you recall when you first started
19 representing Mr. Armstrong?

20 A That's been asked and answered.

21 Q In this proceeding?

22 A Yes.

23 Q Or in the February 5th --

24 A This morning.

25 Q If you could be so kind?

1 A Sure.

2 In ~~May~~^{mid} to late August 1991.

3 Q From my understanding Mr. Elstead is
4 associated in the case and representing the Aznarans
5 with you, is that correct?

6 A Give me a time frame counsel.

7 Q As we sit here?

8 A No, Mr. Elstead is the attorney of
9 record -- well, shoot. Yes.

10 Right now the status of the Aznaran
11 litigation is it's strung out between the Central
12 District and U.S. Supreme Court.

13 John Elstead is the attorney of record in
14 the trial court. I am the attorney of record in the
15 U.S. Supreme Court. That's where it stands.

16 Q Is Mr. Armstrong providing any services
17 in which Mr. Elstead is paying for those services?

18 In other words, do you have Mr. Armstrong
19 as a facility in your office to provide assistance in
20 work that's performed out of your office?

21 A Yeah, Jerry works for me.

22 Q Does Mr. Elstead share in that facility,
23 being Mr. Armstrong?

24 A Does Jerry work for John Elstead?

25 Q Through your office?

1 In other words, if he's working in your
2 office and doing work for Mr. Elstead?

3 THE REFEREE: First, does he do work for
4 Mr. Elstead as far as you know?

5 A No, he does not do work for Mr. Elstead.

6 Now, if I'm doing work and it's in
7 conjunction with Elstead and then Armstrong is helping
8 me does that mean that he's working for Elstead under
9 that scenario? That has occurred in the past, yes.

10 So it's a little bit of a vague question,
11 but that's the best way I can break it down.

12 Q BY MR. STOLLER: In certain instances
13 when you're doing work in conjunction with Elstead and
14 Armstrong provides assistance, that would be the type
15 of situation.

16 Are there any instances where Mr.
17 Armstrong provides work or services to Mr. Elstead in
18 addition to that?

19 MR. BERRY: This seems to be an attempt
20 to discovery in Armstrong II.

21 MR. STOLLER: To the extent it relates to
22 the Aznarans, Mr. Elstead is an attorney involved in
23 that proceeding, I think it's appropriate inquiry.

24 A Could you repeat the question?

25 MR. BERRY: The Aznaran case is another

1 case as well.

2 Q BY MR. STOLLER: Are you aware of any
3 work that Mr. Armstrong performs on behalf of Mr.
4 Elstead?

5 A No.

6 Q Does Mr. Elstead pay Mr. Armstrong any
7 monies for any services?

8 A No, not that I'm aware of.

9 Q If there was such an arrangement would
10 you be aware of it?

11 A I don't know.

12 Q As far as what goes on in your office,
13 would you be aware of people doing work for other
14 people in your office?

15 A If it was something that I had something
16 to do with, yes, of course.

17 Maybe this -- I am getting a little
18 burned out here. Gerry Armstrong, I am informed and
19 believe, has been designated as an expert witness By
20 John Elstead in a case entitled ^{ziker}~~Huntsinger~~ versus
21 Applied Materials.

22 Now, I don't know if that would fall
23 within the scope of your inquiry or not.

24 If you deign that it would, then the
25 answer's yes. So I don't know how to answer your

1 question, but that's -- that information in my view is
2 in the ballpark.

3 Q I appreciate the response.

4 I'm also looking to the extent Mr.
5 Armstrong does provide additional services that might
6 be distinguishable from the services he provides to
7 you in your office to Mr. Elstead which is involved in
8 the Aznaran case?

9 A I'm sorry. You did qualify it with
10 Aznaran.

11 I don't think so, no. If he did I would
12 know it.

13 Q And you would know it, right?

14 A That's right.

15 Q I know I asked you before about any
16 telephone conversations you may have had with Mr.
17 Yanny, but I don't think I ever asked you whether or
18 not you had any telephone conversations in which Mr.
19 Yanny and Mr. Armstrong may have been on the phone at
20 the same time.

21 Were there any such conversations?

22 A (No response)

23 Q Did you ever have any telephone
24 conversations in which you, Mr. Yanny and Mr.
25 Armstrong were on the phone at the same time?

1 A A conference call? I don't think so, no.

2 Q It doesn't also have to be a conference
3 call. It could also be on a speakerphone?

4 A I know. A three-way conversation?

5 No.

6 Q Has Mr. Armstrong ever provided you any
7 information concerning -- strike that.

8 Let's try it this way.

9 Has Mr. Armstrong given you any
10 information concerning the plaintiffs in this case in
11 which he acquired, I guess outside of the sphere of
12 influence of working in your office, any external
13 sources?

14 That's unlimited. In other words, I
15 don't want to characterize it as one area or not. Has
16 he ever given you any input into this case?

17 A You're going to have to rephrase your
18 question. It is just a terrible question.

19 MR. BERRY: Furthermore, I object on the
20 grounds of relevancy.

21 This is clearly an effort to gather
22 evidence for use in another case. Specifically
23 Armstrong II.

24 MR. STOLLER: It's still a foundational
25 question to the extent of whether or not he has

1 provided any information to the extent, then we go in
2 and find out where it's from.

3 It may be something that might relate to
4 the other litigation, but it also might be to the
5 extent that it might lead to certain aspects that
6 involve this case. Until the foundational questions
7 are asked and we get answer to those there is no way
8 of knowing other answers.

9 MR. BERRY: I appreciate you're having
10 problems taking discovery in Armstrong II because of
11 the hiatus and inability to force the depositions, but
12 this proceeding should not be used as a substitute.

13 MR. STOLLER: I believe that Mr.
14 Armstrong did in fact work in Mr. Yanny's office,
15 notwithstanding Mr. Greene's knowledge of that fact.

16 To the extent that information may have
17 been obtained by Mr. Armstrong while he was employed
18 by Mr. Yanny, and that information was provided to Mr.
19 Greene to be utilized in this proceeding, I believe
20 it's an appropriate inquiry.

21 To the extent I'm characterizing broader
22 than what would be appropriate or tasteful to your
23 liking, I apologize for that. I believe it's relevant
24 to the inquiry here. It's foundational in nature. In
25 subsequent questions we can deal with them as they

1 come up.

2 MR. BERRY: Mr. Moxon exhaustively
3 explored this with Mr. Armstrong, and it's been
4 explored with Mr. Yanny.

5 You have Mr. Stoller too today.

6 A I understand your question now.

7 Has any information at any time been
8 transferred to me through Gerry Armstrong? The answer
9 is no.

10 Q BY MR. STOLLER: Has Mr. Armstrong
11 provided you any information in the, in your
12 representation of the Aznarans as against the
13 plaintiffs?

14 A Vague, ambiguous, and even if it weren't
15 it would fall within the scope of attorney work
16 product privilege, and on that basis I will not
17 answer.

18 MR. STOLLER: Okay.

19 You could have said that a long time ago
20 and we would have gone onto the next question.

21 MR. GREENE: If you had not confused me
22 with the relative intelligibility -- I understand it's
23 hard to ask a question, I just couldn't get a grip.

24 Q BY MR. STOLLER: Did Mr. Armstrong ever
25 mention to you that he retained Joe Yanny to represent

1 him?

2 A That falls within the scope of the
3 attorney-client privilege and I won't answer it.

4 Q The attorney-client privilege as to any
5 communications you may have had with Mr. Armstrong?

6 A That is correct.

7 Q Other than the written papers that you
8 received from Mr. Koresko during that weekend in
9 August of 1991, have you received any other written
10 documentation or communications from Mr. Yanny or his
11 law offices concerning the Aznaran case?

12 A Absolutely not. Not one.

13 MR. STOLLER: Excuse me one second.

14

15 (Discussion held off the record.)

16

17 Q BY MR. STOLLER: Why don't you take a
18 look at your Exhibit 7? I don't have a copy of that.
19 It's a declaration of January 23 of this year.

20 A (Complying)

21 That's the Van Sickle declaration, right?

22 MR. STOLLER: That's right.

23 A Alright.

24 Q BY MR. STOLLER: I believe you previously
25 testified that you've seen it prior to your deposition

1 on February 5th, 1991.

2 My question is do you recall who provided
3 you a copy of the Van Sickle declaration?

4 A No.

5 Q You have no recollection?

6 A I don't.

7 Q Do you know if it was forwarded to your
8 office?

9 A I really don't know.

10 Q It just appeared one day?

11 A Well, you know, Scientology litigation is
12 a dense and thick proposition. I read a lot of stuff.
13 I'll go through a lot of paper and I really don't
14 know. I just don't know.

15 Q Prior to you executing the Substitution
16 of Attorney was it your understanding that your
17 relationship with the Aznarans was strained?

18 A That certainly falls within the scope of
19 the attorney work product privilege and I won't answer
20 because of it.

21 Q Okay.

22 Again I might have asked you about this,
23 but you can bear with me if you choose to.

24 Did you have any discussions with Mr. Van
25 Sickle prior to your execution of the Substitution of

1 Attorney on June 7, 1991?

2 A I will bear with you and assert the
3 attorney work product privilege. I won't answer.

4 Q Whether or not you had any discussions
5 with him prior to your substitution?

6 A I'm sorry.

7 Yes, of course I did. And I said
8 previously that I did.

9 Q Did you have any discussions with him in
10 the closer proximity of your execution of the
11 Substitution of Attorney other than the initial
12 discussions you may have had of getting into the case
13 and getting up to speed and finding out what was going
14 on in which you discussed your substituting out of the
15 case as a condition of settlement?

16 A Wait a minute.

17 Q Let me put it this way.

18 Within 60 days of your execution of the
19 Substitution of Attorney, which was on June 7, 1991 --

20 A From August 7.

21 April.

22 Q Did you have any discussions with Mr. Van
23 Sickles in which you discussed that your substitution
24 out of the representation of the Aznaran's case was a
25 condition to reaching a settlement?

1 A No.

2 Q How about 120 days, would that change --

3 A No, I've never had a single discussion in

4 that regard with Barry Van Sickle.

5 Q Regarding that topic?

6 A That is correct.

7 Q The same question as it applies to any

8 discussions you might have had with Joe Yanny on that

9 same topic?

10 Do you have the question in your mind?

11 A No.

12 Q No discussions with Mr. Yanny?

13 A That is correct.

14 Q Sixty or 120 days?

15 A Both.

16 MR. BERRY: Put in an orange pole and he

17 might remember.

18 MR. STOLLER: Orange pole?

19 MR. BERRY: Read the Aznaran complaint.

20 Q BY MR. STOLLER: Did the Aznarans ever

21 inform you that Barry Van Sickle told the Aznarans

22 that Mr. Quinn and Mr. Drescher made it a condition of

23 settlement that you be taken out of the case?

24 A Any conversations between the Aznarans

25 and myself fall within the scope of the

1 attorney-client privilege and therefore I refuse to
2 answer that question. As much as I'd like to.

3 Q Do you know when John Elstead was first
4 contacted as a potential attorney to assist the
5 Aznarans?

6 A No.

7 Q Did you subsequently become aware that he
8 was contacted to assist in the litigation?

9 A He associated with me?

10 Q That was the first instance in which you
11 knew he was going to come in on the case?

12 A I refuse to answer based on the work
13 product privilege.

14 Q Prior to August 2, 1991 did you know John
15 Elstead?

16 That was the date I associated in the
17 case I believe.

18 THE REFEREE: Had you ever met him?

19 A I knew of Mr. Elstead.

20 I'd spoken with Mr. Elstead. I had never
21 laid eyes on him.

22 Q Prior to?

23 A End of July, '91.

24 Q When you had laid eyes on him in July of
25 1991, was that during a meeting that you had with him?

1 A That is correct.

2 Q Was that meeting in your office?

3 A It was in his.

4 Q Was the purpose of the meeting to discuss
5 the Aznaran case?

6 A I will assert the work product privilege,
7 and without waiving it, say yes.

8 Q Was anyone else present besides you and
9 Mr. Elstead during that meeting in which you discussed
10 the Aznaran case?

11 A His office staff was present in his
12 larger suite of offices of the partnership where he
13 was a partner at that time.

14 And his office where the two of us were
15 talking, no.

16 Q Was Mr. Armstrong present with you when
17 you attended to the visit of Mr. Elstead?

18 A No.

19 Q Was Mr. Yanny present with you?

20 A No.

21 Q Were the Aznarans present?

22 A No.

23 Q Did you have any conversations with
24 anybody while you were having your meeting with Mr.
25 Elstead?

1 In other words, did you originate any
2 telephone calls of your meeting to Mr. Armstrong?

3 A No.

4 Q Did you originate any telephone calls to
5 the Aznarans when you had a meeting with Mr. Elstead?

6 A No.

7 Q The same question as it applies to Mr.
8 Yanny?

9 A No.

10 Q The same question as it applies to Mr.
11 Van Sickle?

12 A No.

13 Q Have you ever had any discussions with
14 Mr. Elstead concerning Joe Yanny?

15 A You know, it starts to get into that work
16 product territory, and therefore I refuse to answer
17 it.

18 Q Work product territory regarding Mr.
19 Yanny?

20 A Right. That's right.

21 John Elstead and I are co-counsel on
22 behalf of Vicki and Richard Aznaran. Sorry counsel, I
23 refuse to answer that based on the attorney work
24 product privilege.

25 Q Did you have discussions with Mr. Elstead

1 concerning Mr. Yanny that did not relate to his
2 representation of the Aznarans?

3 A No.

4 Q Have you ever been in an adversary
5 position with Mr. Elstead on any case prior to the
6 representation of the Aznarans?

7 A It's irrelevant to this case. I refuse
8 to answer it.

9 Q You're refusing to answer based on
10 relevancy grounds?

11 A Yes.

12 THE REFEREE: Well --

13 MR. GREENE: Sure am.

14 MR. BERRY: All the information is
15 available from the public record.

16 THE REFEREE: But we're in a deposition
17 folks.

18 I'll overrule that objection. You stated
19 you've never, you had never faced, been face-to-face
20 with him before?

21 MR. GREENE: That's right.

22 THE REFEREE: If I remember correctly you
23 never had a -- I'm unclear as to whether you had ever
24 had a conversation with him.

25 MR. GREENE: Telephone conversation I

1 said yes, I had.

2 THE REFEREE: --

3 Q BY MR. STOLLER: I believe he stated he
4 never laid eyes on him until he had this meeting.

5 THE REFEREE: Had you ever been in
6 opposition to him in a lawsuit?

7 MR. GREENE: Yes.

8 Q BY MR. STOLLER: When was that?

9 A You know Your Honor, this starts getting
10 into -- what I would request at this point would be an
11 opportunity to make an in-camera presentation to the
12 court, because I know exactly where these people are
13 going. It has absolutely nothing to do --

14 Maybe you don't, counsel, but your
15 handlers do. And this doesn't have anything to do
16 with Yanny II. But it has an awful lot to do with
17 some other efforts, and I really object to this.

18 I would like the opportunity, on the
19 record if need be, and seal it, or off the record, but
20 I would like to make an in-camera presentation to the
21 court which deals with why I object to this line of
22 questioning.

23 THE REFEREE: First I'm going to ask
24 counsel to make a representation as to why you think
25 this is relevant, then I'll take the in-camera and

1 we'll take it from there.

2 MR. STOLLER: Well, let me do this with
3 you.

4 Let me take a two minute break and I'll
5 make you an offer of proof that you need so you can
6 then conduct the in-camera inspection on it.

7 THE REFEREE: That's fine.

8

9 (Recess taken.)

10

11 MR. STOLLER: Back on the record.

12 Basically you wanted to understand the
13 relevancy as to the inquiry as to whether or not Mr.
14 Greene had ever been in an adversary position with Mr.
15 Elstead on any case prior to his representation of the
16 Aznarans.

17 The relevancy is, No.1, based on his
18 previous testimony he indicated that he's never laid
19 eyes on Mr. Elstead until approximately, I believe he
20 said July or August of 1991. I'm not quite certain of
21 the exact testimony, but the record will reflect that.

22 To the extent that his response is
23 subject to a date earlier than that it's inconsistent
24 with his previous testimony, No.1, as to why he would
25 fail to recall Mr. Elstead if he was in an adversarial

1 proceeding.

2 No. 2, in the declarations that have been
3 submitted in various papers in this matter there was a
4 declaration of Mr. Greene regarding the association of
5 Mr. Elstead as trial counsel, which I took up earlier
6 this morning, discussing the fact that he was a sole
7 practitioner, lacked the resources, quote, "necessary
8 to effectively handle the representations of his
9 clients."

10 In that regard there was attempts to
11 obtain various counsel to assist or take on the
12 representation of his clients. There was indications
13 as to that it was not for delay or for any other
14 reasons.

15 To the extent that he may have known
16 about Mr. Elstead, we're interested in finding out,
17 since we have been closed off on every other avenue,
18 as to whether or not there was some dissatisfaction
19 with Mr. Greene's representation of the Aznarans. Did
20 they feel that he was not doing an adequate job? Some
21 of these questions that were asked earlier were closed
22 down, also based upon attorney-client privilege and
23 various other things.

24 There was another document which
25 indicated that there was discussions that Mr. Elstead

1 had regarding the, it was actually in the ex parte
2 application for plaintiffs to respond to all the
3 pending motions.

4 That took place on or about August 26.
5 There was a declaration filed by Mr. Greene in that ex
6 parte application in which he indicated that he became
7 aware July 26 that he was reinstated in the case. And
8 that he was contacted by some reporter, which he
9 testified to earlier today. That's his recollection
10 and that's how he became informed of it. But that he
11 was aware that his clients were in contact with Mr.
12 Elstead and that they were attempting to get counsel
13 to come in and pick up representation of their case.

14 Then in this declaration it states, "on
15 July 31, 1991 I met with Mr. Elstead and with
16 plaintiff's concurrence we determined not to
17 substitute me out and Mr. Elstead in as an attorney of
18 record, but to associate him in as trial counsel."

19 There was further discussion about how
20 the Federal Express file was sent and various other
21 matters. I believe Mr. Yanny was involved in the
22 representation during Mr. Greene's hiatus and I
23 believe that there was some conversations -- I have
24 information to believe that -- that Mr. Yanny had some
25 conversations with Mr. Elstead. And to the extent

1 that we're looking at how Mr. Yanny is involved in
2 these various situations I think it's appropriate to
3 find out in what context Mr. Greene knew Mr. Elstead,
4 what was the basis of his understanding of who he was,
5 what he did, what kind of representation did he
6 undertake, because it all relates back to how Mr.
7 Elstead got into this case.

8 THE REFEREE: I think I understand your
9 position. I excuse you now, and we'll have the
10 in-camera.

11 MR. STOLLER: My understanding is
12 in-camera we're all going to look at it and seal it.

13 MR. GREENE: No.

14 THE REFEREE: He and I look at it and I
15 decide whether it's appropriate.

16 MR. GREENE: I'd rather have it --

17
18 (In-camera discussion held off the
19 record.)

20
21 THE REFEREE: Back on the record.

22 I have had a discussion with the witness
23 regarding the -- an in-camera discussion -- the
24 subject matter with respect to a response to the
25 question.

1 While I don't know that I see any
2 particular probative value to the inquiry, I think the
3 area is a discoverable area and I have, I did ask the
4 witness to answer the question.

5 This is not the one I owe you.
6 (Indicating counsel)

7 MR. STOLLER: Okay.

8 MR. GREENE: Would you repeat the
9 question?

10 Q BY MR. STOLLER: I asked you as a
11 preliminary question whether or not you had ever been
12 in an adversarial position or relationship with Mr.
13 Elstead on any case prior to the representation of the
14 Aznarans?

15 A Right.

16 Q And you mentioned yes?

17 A Yes.

18 Q And I asked you what?

19 A And the response is that John Elstead
20 represented a fellow by the name of Paul Gutfreund in
21 an action for professional negligence wherein I was
22 named as a defendant.

23 And so with respect to that matter in the
24 spring, I believe of 1991, I had maybe two telephone
25 conversations with Mr. Elstead in regard to obtaining

1 an extension of time to answer or otherwise respond to
2 the Gutfreund complaint. And so that is the total
3 prior contact that I had with Mr. Elstead outside of
4 contacts with him within the scope of the Aznaran
5 case.

6 Q Were you representing yourself in that
7 action?

8 A Yes.

9 Q Were you the only defendant in that
10 action?

11 A No, also the law firm of Les Weaver and
12 Weiner, John Weiner I believe, were named as
13 defendants.

14 Q You had never met Mr. Elstead, you had
15 just discussed with him on the phone those two
16 occasions regarding extensions of time within which to
17 oppose or file additional papers, you had never met
18 him in court or seen him prior to that?

19 A Yes, it is.

20 Nor had I ever spoken to him.

21 Q Was it as a result of your experience
22 with Mr. Elstead in this other matter that you just
23 identified the basis for contacting him to get
24 involved in the Aznaran case?

25 A That's an unintelligible question. Could

1 1 you repeat it please?

2 Q What was unintelligible about it so I can
3 try to reframe it for you?

4 THE REFEREE: Let's put it this way, I
5 don't understand it either.

6 Q BY MR. STOLLER: I'd ask you the same
7 question.

8 THE REFEREE: I didn't understand any
9 part of it. So let's start over.

10 A (No response)

11 Q BY MR. STOLLER: Did you contact Mr.
12 Elstead to see whether or not he would be interested
13 in getting involved in the Aznaran case?

14 A I'm afraid that falls within the scope of
15 the work product privilege and I refuse to answer on
16 that basis.

17 Q Do you know whether he Mr. Elstead was
18 first contacted as a potential legal counsel for the
19 Aznarans?

20 A I do not.

21 Q Do you know who contacted him?

22 A No.

23 Q Did you ever discuss the Aznaran case
24 with Mr. Elstead prior to his association into the
25 case?

1 A That would fall within the scope of the
2 work product privilege and I refuse to answer on that
3 basis.

4 Q I guess by that, to the extent that you
5 would talk about certain contexts or mental
6 impressions or whatever the case with Mr. Elstead,
7 you're refusing to respond?

8 A Absolutely.

9 Q Let me go back to something here.

10 Prior to the substitution into the case
11 and prior to that meeting where you met him, I'm not
12 quite sure whether you testified as to whether or not
13 you had any telephone conversations with him prior to
14 that event, the event being the actually meeting him
15 face-to-face?

16 A That's what our in-camera conversation
17 was all about.

18 The answer is yes. Asked and answered.

19 Q It had to do with the other litigation.

20 Other than that other litigation did you
21 have any other discussions with Mr. Elstead prior to
22 his association into the case?

23 A No.

24 Wait, wait, wait.

25 You've used the word "case" twice. One

1 refers to the former, referred to Gutfreund, the
2 latter refers to Aznaran. So it's vague.

3 Q Let me rephrase it.

4 Prior to Mr. Elstead associating into the
5 Aznaran case did you have any telephone conversations
6 with him other than what you mentioned regarding the
7 other malpractice case?

8 A No.

9 Q Did you ever tell the Aznarans that you
10 had doubts about your ability to conduct a lengthy
11 trial in Los Angeles without the aid of additional
12 counsel?

13 A I would refuse to answer that based on
14 the attorney-client privilege.

15 Also on the basis of work product.

16 THE REFEREE: It's five minutes to 4:00.
17 We have had a witness sitting out there since 11:15 or
18 11:30. I suggest you wind up with this witness.

19 MR. STOLLER: Good suggestion.

20 I'm done.

21 MR. BERRY: I was wanting to ask some
22 questions.

23 THE REFEREE: Let's get this lady who has
24 been sitting out there crying for about an hour, let's
25 get her examined.

1 MR. STOLLER: She has?

2 THE REFEREE: That's what I hear.

3 MR. STOLLER: I haven't even asked her
4 any questions yet.

5 THE REFEREE: I think probably the cause
6 of action would be negligent infliction of emotional
7 distress.

8 MR. STOLLER: Isn't there Section 47 for
9 judicial immunity?

10 MR. GREENE: Only if it's a related to
11 the litigation.

12 MR. STOLLER: She's sitting outside.

13 THE REFEREE: I'm not saying you won't
14 have a chance later in the day to ask some questions.
15 In the interest of husbandry --

16 MR. BERRY: I have about 20 minutes of
17 questions. If we could do it with the understanding
18 that I'll have 15 to minutes at the end of the day?

19 THE REFEREE: As far as I'm concerned
20 that's probably going to work out.

21

22 (Mr. Parker arrived at the
23 deposition.)

24

25 THE REFEREE: We'll suspend this

12

1 examination at this time.

2

3

(Ending time: 4:00 p.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24


25

1 STATE OF _____)
2) ss.
3 COUNTY OF _____)
4
5
6

7 I, the undersigned, declare under penalty
8 of perjury that I have read the foregoing
9 transcript, and I have made any corrections,
10 additions, or deletions that I was desirous of
11 making; that the foregoing is a true and correct
12 transcript of my testimony contained therein.

13 Executed this 24th day of April,
14 1992, at San Anselmo, Calif..
15 (City) (State)
16
17
18
19

20
21
22
23
24
25



FORD GREENE

12 1 STATE OF CALIFORNIA)

2
3 COUNTY OF LOS ANGELES)

4
5 I, JAN W. SERRA, CSR No. 8207,
6 Certified Shorthand Reporter, certify:

7 That the foregoing proceedings were,
8 taken before me at the time and place therein set
9 forth, at which time the witness,

10 FORD GREENE,

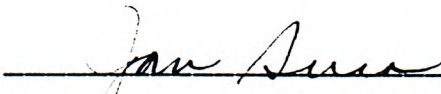
11 was put under oath by me;

12 That the testimony of the witness And
13 all objections made at the time of the examination
14 were recorded stenographically by me and were
15 thereafter transcribed;

16 That the foregoing is a true and correct
17 transcript of my shorthand notes so taken.

18 I further certify that I am not a
19 relative or employee of any attorney of any
20 of the parties, nor financially interested in
21 the action.

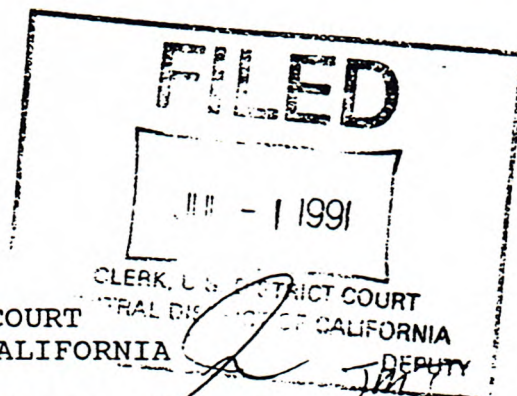
22 Dated this APRIL 15, 1992.

23
24 
25 Certified Shorthand Reporter

FORD GREENE

711 1/2 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Plaintiffs
VICKI J. AZNARAN and RICHARD N. AZNARAN



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT, STATE OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N.
AZNARAN,

CASE NO. CV88-1786-WDK

Plaintiffs,

SUBSTITUTION OF ATTORNEY

VS.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, INC.; CHURCH OF
SPIRITUAL TECHNOLOGY, INC.;
SCIENTOLOGY MISSIONS INTERNATIONAL,
INC.; RELIGIOUS TECHNOLOGY CENTER,
INC.; AUTHOR SERVICES, INC.;
CHURCH OF SCIENTOLOGY INTERNATION-
AL, INC.; CHURCH OF SCIENTOLOGY OF
LOS ANGELES, INC.; MISSION OFFICE
WORLDWIDE; AUTHOR FAMILY TRUST;
THE ESTATE OF L. RON HUBBARD;
DAVID MISCAVIGE; and NORMAN
STARKEY

Defendants.

I, RICHARD N. AZNARAN, hereby substitute, in PRO PER, 703
McKinney Avenue, Suite 309, Dallas, Texas 75206, (214) 720-1414,
in place and stead of FORD GREENE, 711 1/2 Sir Francis Drake Blvd.,
San Anselmo, California 94960-1949.

DATED:

6/11/91

RICHARD N. AZNARAN

I hereby consent to the foregoing designation.

DATED:

6/7/91

FORD GREENE

357 green
Ex 8

FILED

JUL - 1 1991

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

FORD GREENE
711 Sir Francis Drake Blvd.
San Anselmo, California 94960-1949
Telephone: (415) 258-0360

Attorney for Plaintiffs
VICKI J. AZNARAN and RICHARD N. AZNARAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT, STATE OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N.
AZNARAN,

Plaintiffs,

VS.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, INC.; CHURCH OF
SPIRITUAL TECHNOLOGY, INC.;
SCIENTOLOGY MISSIONS INTERNATIONAL,
INC.; RELIGIOUS TECHNOLOGY CENTER,
INC.; AUTHOR SERVICES, INC.;
CHURCH OF SCIENTOLOGY INTERNATION-
AL, INC.; CHURCH OF SCIENTOLOGY OF
LOS ANGELES, INC.; MISSION OFFICE
WORLDWIDE; AUTHOR FAMILY TRUST;
THE ESTATE OF L. RON HUBBARD;
DAVID MISCAVIGE; and NORMAN
STARKEY

Defendants.

CASE NO. CV88-1786-WDK *SmT*

SUBSTITUTION OF ATTORNEY

Amel Over

I, VICKI J. AZNARAN, hereby substitute, in PRO PER, 703
McKinney Avenue, Suite 309, Dallas, Texas 75206, (214) 720-1414,
in place and stead of FORD GREENE, 711 ^{Bld.} Sir Francis Drake ~~Bld.~~,
San Anselmo, California 94960-1949.

DATED: 6-11-91

Vicki Aznaran
VICKI J. AZNARAN

I hereby consent to the foregoing designation.

DATED: 6/7/91

[Signature]
FORD GREENE

376 Greene 69



1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF LOS ANGELES

3 ORIGINAL

4 - - -

5 RELIGIOUS TECHNOLOGY CENTER, A)
6 California Non-Profit Religious)
7 Corporation; CHURCH OF)
8 SCIENTOLOGY INTERNATIONAL, A)
9 Non-Profit Religious Corporation;)
and CHURCH OF SCIENTOLOGY OF)
CALIFORNIA, A Non-Profit)
Religious corporation,)

10 Plaintiffs,)

11 vs.)

No: BC 033035

12 JOSEPH A. YANNY, an individual;)
13 JOSEPH A. YANNY, a professional)
law corporation, and DOES 1-25,)
inclusive,)

VOLUME III

14 Defendants.)

15
16 VOLUME III - DEPOSITION OF

17 FORD GREENE

18 SANTA MONICA, CALIFORNIA

19 APRIL 8, 1992

20
21 ATKINSON-BAKER AND ASSOCIATES, INC.
22 CERTIFIED SHORTHAND REPORTERS
1612 West Olive Avenue, Suite 203
23 Burbank, California 91506
(818) 566-8840

24 REPORTED BY: JAN SERRA, CSR NO. 8207

25 FILE NO.: 9202678

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF LOS ANGELES

3 RELIGIOUS TECHNOLOGY CENTER, A)
4 California Non-Profit Religious)
5 Corporation; CHURCH OF)
6 SCIENTOLOGY INTERNATIONAL, A)
7 Non-Profit Religious Corporation;)
8 and CHURCH OF SCIENTOLOGY OF)
9 CALIFORNIA, A Non-Profit)
10 Religious corporation,)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

Plaintiffs,

vs.

No: BC 033035

JOSEPH A. YANNY, an individual;
JOSEPH A. YANNY, a professional
law corporation, and DOES 1-25,
inclusive,

VOLUME III

Defendants.

Volume III - Deposition of FORD GREENE, taken on
behalf of the Plaintiff, at 3340 Ocean Park Boulevard,
Suite 1050, Santa Monica, California 90405, commencing
at 6:00 p.m., Wednesday, April 8, 1992, before Jan
Serra, CSR 8207.

A P P E A R A N C E S

FOR THE PLAINTIFF CHURCH OF SCIENTOLOGY:

BESBRIS, HOLLIS & STOLLER
BY: MICHAEL T. STOLLER, ESQ.
10900 Wilshire Boulevard
Suite 1010
Los Angeles, California 90024
(310) 443-5200

FOR THE DEFENDANT:

LEWIS, D'AMATO, BRISBOIS & BISGAARD
BY: GRAHAM E. BERRY, ESQ. AND
DAVID PARKER, ESQ.
221 North Figueroa Street
Suite 1200
Los Angeles, California 90012
(213) 250-1800

FOR THE WITNESS:

HUB LAW OFFICES
BY: FORD GREENE, ESQ.
711 Sir Francis Drake Boulevard
San Anselmo, California 94960
(415) 258-0360

THE REFEREE: THE HONORABLE THOMAS T. JOHNSON

ALSO PRESENT:

HOWARD GUTFELD

///

I N D E X

WITNESS: FORD GREENE

EXAMINATION

PAGE

BY MR. BERRY

260

EXHIBITS:

DEFENDANT'S
DESCRIPTION

PAGE

(None)

NUMBER

PLAINTIFF'S
DESCRIPTION

PAGE

(None)

QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

(None)

6
1 THE REFEREE: Back on the record. The
2 resumption of Mr. Greene's deposition, questions by
3 Mr. Berry.

4
5 EXAMINATION

6
7 BY MR. BERRY:

8 Q Mr. Greene, did you file the complaints
9 in the Aznaran case?

10 A I did not.

11 Q Who filed the complaints in the Aznaran
12 case?

13 A It's my knowledge and belief it was filed
14 by the law firm of Cummins & White.

15 Q Did there come a point in time when
16 Cummins & White ceased to represent the Aznarans?

17 A Based on my review of the file in that
18 case, yes.

19 MR. STOLLER: Can I object for one second
20 or just see this? (Indicating)

21 It appears you're reading from some
22 questions that looked like they were from the note pad
23 of Mr. Greene.

24 MR. BERRY: No, it's a document which
25 will be filed in the court tomorrow. But it's not

1 questions. I'm holding it here so I can correctly
2 describe a certain document.

3 MR. STOLLER: The paper was from Greene's
4 pad, and I was just questioning whether or not these
5 were his questions.

6 MR. BERRY: There are no questions at
7 all. It's a declaration which will be served on you
8 tomorrow.

9 MR. STOLLER: Do you want to attach the
10 declaration to the record?

11 MR. GREENE: Not any more than what you
12 did earlier.

13 Q BY MR. BERRY: Who took over the
14 representation of the Aznarans when Cummins & White
15 ceased to represent them?

16 MR. STOLLER: Can I at least get the
17 question since he's reading it into the record?

18 I'm trying to get the framing of the
19 question. Maybe it's late, and I apologize for that.
20 If you could rephrase it?

21 Q BY MR. BERRY: Let me re-state the
22 question.

23 Did there come a point in time when you
24 commenced representing the Aznarans?

25 A Yes.

7 1 Q Was that immediately upon Cummins & White
2 ceasing to represent the Aznarans?

3 A No.

4 Q About how long after Cummins & White
5 ceased to represent the Aznarans did you commence to
6 represent the Aznarans?

7 A Approximately six months.

8 Q Are you familiar with a document entitled
9 "Mutual Release of All Claims and Settlement
10 Agreement" executed by Gerald Armstrong on December 6,
11 1986?

12 A I am.

13 Q Is this agreement one of a series of
14 agreements?

15 A Based on my understanding it is one of
16 approximately 21.

17 MR. STOLLER: Objection, lack of
18 foundation.

19 Q BY MR. BERRY: Mr. Greene, would you
20 indicate, to your knowledge, what other agreements
21 exist in that series?

22 MR. STOLLER: Objection, assumes facts
23 not in evidence.

24 That's a foundational question as well.

25 A (No response)

1 Q BY MR. BERRY: Mr. Greene, to your
2 knowledge are there other agreements that were
3 executed on or about the time of what we shall refer
4 to as the "Armstrong agreement?"

5 A Yes.

6 MR. STOLLER: Objection, the question is
7 also vague and ambiguous.

8 THE REFEREE: What's the basis of your
9 knowledge?

10 MR. GREENE: The basis of my knowledge is
11 approximately 21 people who in the last half of 1986
12 were represented by attorney Michael J. Flynn from
13 Boston, Massachusetts.

14 All of those people, to my knowledge,
15 signed agreements with Scientology. Some of the
16 people were not even litigants, they were simply
17 witnesses, signed agreements with Scientology
18 substantially similar to that signed by Gerald
19 Armstrong.

20 The points of substantial similarity were
21 that all those agreements, to my knowledge, included
22 provisions whereby they would not talk.

23 MR. STOLLER: Objection.

24 Excuse me for one second. And I don't
25 mean to cut off the stream of response. However, my

1 understanding is these settlement agreements were
2 confidential.

3 To the extent that you're testifying
4 about them on the record, I don't know if you have the
5 ability to be able to testify as to the context or the
6 substance of these agreements.

7 MR. BERRY: That's a very disingenuous
8 argument since this organization has filed that
9 agreement in Marin County, has given argument on that
10 agreement in open court, has filed declarations about
11 that agreement, has filed it in the appellate court,
12 has filed it in the Aznaran case.

13 MR. STOLLER: If it's already in the
14 court what's the relevancy of having testimony about
15 that testimony in the proceeding?

16 MR. BERRY: The relevance will become
17 clear as I go along.

18 MR. STOLLER: I believe I have been
19 interposed with objections all day about relevancy.

20 MR. BERRY: For the most part I have
21 interposed my objections and not asked for proof on
22 it.

23 THE REFEREE: I don't really think we
24 have had much excluded on relevance grounds today,
25 have we?

1 MR. BERRY: I've interposed objections.

2 MR. STOLLER: My understanding is the
3 only agreement at issue is the Gerald Armstrong
4 agreement.

5 The fact that these other agreements with
6 members or former members -- I don't understand. What
7 is the relevancy of those agreements in this
8 litigation?

9 THE REFEREE: Let's let the questioning
10 proceed, subject to a possible motion to strike if it
11 appears to be appropriate.

12 MR. STOLLER: And possibly sealing the
13 transcript?

14 THE REFEREE: And possibly sealing the
15 transcript.

16 MR. STOLLER: If in fact there are
17 certain confidentialities that are being breached.

18 THE REFEREE: Alright.

19 Q BY MR. BERRY: To your knowledge was
20 there -- withdrawn.

21 Were there agreements -- withdrawn.

22 Were there two types of agreements?

23 A Yes.

24 Q What were those two types of agreements?

25 A One type of agreement flowed between the

1 Scientology organization and litigant and/or witnesses
2 who possessed information which the Scientology
3 organization considered harmful to it.

4 The other type of agreement was between
5 the Scientology organization and attorneys adverse to
6 the Scientology organization whereby said attorneys
7 were required by the terms of the agreement not to
8 provide representation in the future to people who
9 wanted to sue the organization.

10 Q Do you know the names of any of the those
11 attorneys who entered into such agreements?

12 A Yes.

13 Q What are they?

14 A Michael J. Flynn.

15 Julia Dragovich.

16 Bruce Bunch.

17 Perhaps Walt Logan.

18 Q Now --

19 MR. STOLLER: "Perhaps." Is that
20 speculation, or do you know in fact?

21 MR. BERRY: I was conducting the
22 questioning I believe, Your Honor.

23 THE REFEREE: I think "perhaps" is a
24 provocative word.

25 MR. STOLLER: Move to strike.

8 1 THE REFEREE: I'll strike following, the
2 name following "perhaps."

3 Q BY MR. BERRY: Returning to the
4 agreements with the litigants.

5 Does the Armstrong agreement provide any
6 restrictions?

7 A Yes.

8 MR. STOLLER: Objection, the question is
9 vague and ambiguous as to when he refers to "the
10 litigants."

11 Are you referring to the litigants in the
12 instant action?

13 MR. BERRY: I'm referring to the
14 litigants that signed the so-called "Flynn type
15 agreements."

16 MR. GREENE: Litigant and witnesses.
17 They weren't strictly limited to litigants.

18 Q BY MR. BERRY: Were those agreements
19 generally cookie cutter agreements?

20 MR. STOLLER: Objection, vague and
21 ambiguous.

22 MR. BERRY: It's a word the
23 organization's counsel used to describe them.

24 THE REFEREE: I don't know what "cookie
25 cutter" means.

8 1 A They were substantially similar with
2 respect to provisions that required people to keep
3 their mouths shut about their knowledge of the
4 practices of the Church of Scientology.

5 That required them not to make themselves
6 amenable or to avoid service of process.

7 Not to testify unless it was pursuant to
8 a subpoena.

9 Not to assist or aid anyone adverse to,
10 or aligned against the Scientology organization.

11 Those four provisions are what resulted
12 in tremendous difficulty for individuals who had any
13 claims against Scientology for various types of
14 exploitation and abuse.

15 Q BY MR. BERRY: To your knowledge did the
16 Aznarans have difficulty in locating counsel before
17 they retained you?

18 A Yes. They were without counsel, to my
19 knowledge, for approximately six months. Because it
20 is my understanding, based on the files in that
21 action, experienced, well-financed, skillful
22 litigators believed that life was too short to
23 litigate against Scientology.

24 I also might add the Aznarans as a
25 condition of escaping Scientology without being

8
1 declared fair game were coerced into signing an
2 agreement substantially similar to that which you have
3 stated as the "Armstrong agreement."

4 Q Let me refer to your declaration, Exhibit
5 4, page 9 of that declaration.

6 Sorry, page 4 paragraph 9.

7 A Yes.

8 Q This is Exhibit 4.

9 First of all --

10 THE REFEREE: What are you referring to?

11 MR. BERRY: Exhibit 4.

12 MR. STOLLER: This is regarding the
13 declaration of Ford Greene, the alleged taint.

14 MR. BERRY: Yes.

15 MR. GREENE: Regarding the alleged taint
16 of Joseph Yanny, Esq.

17 Q BY MR. BERRY: That was executed on
18 September 4, 1991?

19 A Yes.

20 Q That was correct then?

21 A Yes.

22 MR. STOLLER: Objection, the document
23 speaks for itself.

24 Q BY MR. BERRY: Is it correct now?

25 A Yes.

8 1 Q Are you familiar with a practice known as
2 "fair game?"

3 A On an increasingly intimate basis.

4 Q What is your understanding, first of
5 all -- withdrawn.

6 What is your understanding of the
7 doctrine of fair game?

8 A My understanding of the doctrine of fair
9 game is that it's predicated on a policy issued by L.
10 Ron Hubbard of the Scientology organization in
11 approximately 1967.

12 The fair game policy holds that anybody
13 who is a suppressive person -- that is anyone who
14 impedes the advancement of Scientology or of any
15 Scientologist -- may be declared fair game.

16 When one is declared fair game he or she
17 may be lied to, sued, tricked or otherwise destroyed
18 by any Scientologist, without any discipline of that
19 Scientologist by the Scientology organization.

20 Those schemes and methods of
21 implementation of the fair game policy literally have
22 no restraint whatsoever with respect to however one
23 who is fair game may be lied to, sued, tricked or
24 otherwise destroyed.

25 Q Do you have any personal experience with

8 1 the fair game doctrine?

2 A Yes.

3 Q What is that experience?

4 A My personal experience involves having my
5 garbage gone through in order to ascertain the
9 6 identities of my clients, the identities of cases in
7 which I am involved and then became the subject of
8 what in Scientology parlance is called the "^{noisy}~~nosey~~
9 investigation."

10 That a private investigator hired by
11 Scientology will go around to opposing counsel, will
12 go around to former clients and make a lot of noise
13 about how Ford Greene is being investigated for one
14 thing or another. And did you know that this is going
15 on?

16 That type of activity first commenced in
17 February 1989 shortly after I started to represent the
18 Aznarans. I got telephone calls from former opposing
19 counsel, former expert witnesses, from former clients,
20 all of whom advised me that such activities were
21 transpiring.

22 At that time also the Scientology
23 organization rented an apartment in an apartment
24 complex directly across the street from my office
25 whereby I was subjected to surveillance 24 hours a

9
1 day.

2 I was followed home to my house, then in
3 Ross, California, by Scientology investigators.

4 My girlfriend was followed. That was the
5 beginning of fair game.

6 Subsequently I have been the subject of
7 the affections of Eugene Ingram, insofar as he has
8 attempted to and was able to accomplish investigations
9 of me by the Federal Bureau of Investigation for
10 perjury, the Los Angeles County District Attorney's
11 office for burglary, and also the California State
12 Bar.

13 MR. STOLLER: Your Honor, I'd like to
14 move to strike on the grounds that it's probably
15 totally irrelevant to this proceeding as far as what
16 his deposition has been proposed for.

17 To the extent that this is arising in the
18 context of the Yanny litigation but apparently Mr.
19 Greene's -- let's call it just his statement -- that
20 has gone on for the last 10 minutes, basically is
21 totally irrelevant to the issues that I understand are
22 raised in this proceeding.

23 To the extent that I have been admonished
24 repeatedly throughout this day about that, I don't see
25 the purpose of the testimony.

1 MR. BERRY: It's specifically relative to
2 the 99 affirmative defenses in which this type of
3 conduct is pleaded as being one of the reasons how the
4 pool of available attorneys to represent the Aznarans
5 became depleted, resulting in the necessity for Mr.
6 Yanny and other such good samaritan counsel to act as
7 they did in a drastic situation.

8 MR. STOLLER: To the extent that they're
9 about certain agreements, to the extent of his
10 personal experiences that he may or may not experience
11 of fair game which he alleged is the policy that has
12 been directed towards him, I think that's totally
13 something different.

14 THE REFEREE: It could all be part of a
15 package.

16 The problem is this, it's now 6:15.
17 We're going to go on for five more minutes. Certainly
18 the testimony that you're eliciting may well give rise
19 to further questions from counsel which the referee
20 cannot accommodate at this time. But if he wants to
21 renew the deposition it's going to have to be renewed.

22 Q BY MR. BERRY: To your knowledge is the
23 policy of fair game well known among the legal
24 community?

25 A Yes.

9 1 MR. STOLLER: Objection, calls for
2 speculation.

3 Vague and ambiguous.

4 THE REFEREE: What what's the basis of
5 your knowledge?

6 MR. GREENE: The basis of my knowledge is
7 that it's been the subject of judicial opinions in
8 All^aerd versus Scientology.

9 Wollersheim versus Scientology.

10 Kattar -- United States v. Kattar.

11 (Phonetic)

12 I believe it's also the subject of
13 judicial discussion in Armstrong.

14 MR. STOLLER: You think?

15 MR. GREENE: I'll give you the cites.

16 Armstrong versus Scientology.

17 It's also the subject of judicial opinion
18 in Christopherson versus Scientology.

19 Any lawyer who is going to litigate
20 against Scientology is going to read those cases. Any
21 lawyer that's contemplating litigating against
22 Scientology is going to read those cases because those
23 cases provide invaluable information with respect to
24 how to address the conduct in which Scientology
25 engages as well as it's efforts to shield itself from

1 the consequences of that conduct, of such conduct, by
2 asserting the First Amendment right to religious
3 liberty.

4 Q BY MR. BERRY: One final area.

5 In the Aznaran case on or about July 24,
6 1991 Judge ~~Edelman~~ ^{Ideman} issued an order which referred to
7 "outrageous litigation tactics," correct?

8 A The order --

9 MR. STOLLER: Objection, the order will
10 speak for itself.

11 Is he going to testify about an order
12 that's made by the court?

13 A There was an order issued by Judge
14 ~~Edelman~~ ^{Ideman}.

15 THE REFEREE: The order says whatever it
16 says.

17 Q BY MR. BERRY: Mr. Greene, you had been
18 representing the Aznarans prior to the issuance of
19 that order, hadn't you?

20 A Yes.

21 Q Do you have personal experience of
22 "outrageous litigation tactics" being employed in the
23 Aznaran case?

24 A Yes.

25 MR. STOLLER: Objection, calls for

1 speculation.

2 Q BY MR. BERRY: What were those tactics
3 that you would consider to be outrageous?

4 MR. STOLLER: Same objection.

5 THE REFEREE: Overruled.

6 A The tactics I considered to be
7 outrageous, one was by employing B^arry Van Sickle to
8 go behind my back to have communications with the
9 Aznarans in order to eliminate me from the
10 representation of the Aznarans by holding out the
11 promise of settlement were Ford Greene's
12 representation to be eliminated.

13 And thereafter, after that had been
14 accomplished, withdrawing the Settlement Offer and
15 then starting to load up the record with multi-pound
16 dispositive ^{summary} judgement motions. That is one.

17 Another is the litigation tactic of
18 subjecting my office, my clients and myself to
19 continuous, around the clock surveillance by private
20 investigators.

21 Also -- I don't have Judge ^{Ideman} ~~Edelman~~'s
22 order right in front of me so I'm not certain of the
23 timing -- but my recollection is that it was after his
24 order issued after the, my declaration regarding the
25 alleged taint of Joseph Yanny, and so could well apply

1 to the facts I set forth there.

2 THE REFEREE: We're going to suspend the
3 deposition at this time.

4 MR. BERRY: I was about to stop there,
5 Your Honor.

6 MR. STOLLER: I'd like to reserve the
7 right to be able to conduct a redirect of Mr. Greene
8 based upon the examination of Mr. Berry this
9 afternoon, and we'll notify you accordingly of whether
10 or not we need to exercise that option.

11 THE REFEREE: It's noted.

12 THE REPORTER: Same stipulation?

13 MR. GREENE: Same stipulation.

14 MR. STOLLER: Same stipulation.

15 THE REPORTER: And you want a copy?

16 MR. BERRY: Yes.

17
18 (Ending time: 6:25 p.m.)
19
20
21
22
23
24
25

1 STATE OF _____)

2) ss.

3 COUNTY OF _____)

4
5
6
7 I, the undersigned, declare under penalty

8 of perjury that I have read the foregoing

9 transcript, and I have made any corrections,

10 additions, or deletions that I was desirous of

11 making; that the foregoing is a true and correct

12 transcript of my testimony contained therein.


13 Executed this 24th day of April,

14 1992, at San Anselmo, Calif.

15 (City)

(State)

16
17
18
19
20
21
22
23
24
25

A large, stylized handwritten signature in black ink, appearing to read 'Ford Greene', is written over a horizontal line.

FORD GREENE

0 1 STATE OF CALIFORNIA)

2
3 COUNTY OF LOS ANGELES)

4
5 I, JAN W. SERRA, CSR No. 8207,
6 Certified Shorthand Reporter, certify:

7 That the foregoing proceedings were,
8 taken before me at the time and place therein set
9 forth, at which time the witness,

10 FORD GREENE,

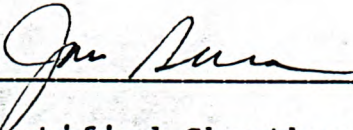
11 was put under oath by me;

12 That the testimony of the witness And
13 all objections made at the time of the examination
14 were recorded stenographically by me and were
15 thereafter transcribed;

16 That the foregoing is a true and correct
17 transcript of my shorthand notes so taken.

18 I further certify that I am not a
19 relative or employee of any attorney of any
20 of the parties, nor financially interested in
21 the action.

22 Dated this April 16, 1992.

23
24 
25 Certified Shorthand Reporter